

## Contract and General Conditions

Project: Taxiway F1 Rehabilitation  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-049-2024

### AGREEMENT:

On \_\_\_\_\_, 20\_\_\_\_, the Yuma County Airport Authority, Inc., an Arizona nonprofit corporation (“Owner”), authorized the award of **FAA AIP 3-04-0053-0049-2024** for the construction of the **Taxiway F1 Rehabilitation** to \_\_\_\_\_ (“Contractor”) doing business as (an individual) (a partnership) (a joint venture) (a corporation) (a limited liability company) with its principal place of business located at \_\_\_\_\_ in the (City) (Town) of \_\_\_\_\_, County of \_\_\_\_\_, and State of \_\_\_\_\_, and carrying the proper and required license issued by the Arizona Registrar of Contractors as follows:

\_\_\_\_\_.

For the consideration of the payments and agreements in this contract, to be made and performed by the Owner, the Contractor agrees with the Owner to commence and complete the project as follows:

## **Article 1: Contract Documents**

- 1.0.1 The Contract Documents consist of this Project Manual, the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplemental and other Conditions), the Drawings, the Construction Safety and Phasing Plan, the Plans and Specifications, all Addenda issued prior to and all modifications issued after execution of the Contract, and all applicable laws, ordinances and regulations. A modification is (1) a written amendment to the contract signed by both parties, (2) an approved Change Order, (3) a written interpretation issued by the Engineer, or where applicable, the Owner, or (4) a written order for a minor change in the Work issued by the Owner. The Contract Documents include Bidding Documents, the Instructions to Bidders, sample forms, the Contractor's Bid or portions of addenda relating to any of these, or any other documents, specifically enumerated in this Owner Contractor Agreement.
- 1.0.2 The Contract Documents form the Contract for Construction ("Contract" or "Agreement"). This Contract, together with the Contract Documents, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or Agreements, either written or oral. The Contract may be amended or modified only as provided herein.
- 1.0.3 In interpreting the Contract, or in the event of discrepancies or conflicts between portions of various Contract Documents, that which will result in the greatest good at the least cost to the Owner, as determined by the Owner, applies.

## **Article 2: The Work**

- 2.0.1 The Contractor will perform all the Work required under this agreement as described herein and in the Contract Documents.
- 2.0.2 The Consultant Project Manager, (hereafter Project Manager), is the administrator of this Contract, the interpreter of the Contract Documents, and judge of the Contractor's performance of the Work.

## **Article 3: Time of Commencement and Completion**

Contractor must begin work within 10 calendar days of the date established by the Notice to Proceed and, subject to modifications authorized by the Project Manager and Owner, complete the Work within the time period specified in the BID SUMMARY SHEET.

## **Article 4: Contract Sum**

The Contract Sum or "Contract Amount" is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. Owner shall not be responsible for payment of any additional amounts unless agreed upon by the parties in a signed writing in compliance with the applicable provisions of this Contract.

## **Article 5: Progress Payments**

- 5.0.1 The Contractor must apply to the Project Manager for progress payments. The Owner will make progress payments pursuant to A.R.S. § 34-221 and with the Project Manager's approval of Contractor's application. Progress payments are subject to retainage amounts as detailed below.
- 5.0.2 Application for Payment shall reflect a 10% retention amount of the dollar amount being requested. Ten per cent of all estimates shall be retained by the Owner as a guarantee for complete performance of the contract.
- 5.0.3 Retention of payments longer than sixty days after final completion and acceptance requires a

specific written finding of the reason justifying the delay in payment. The Owner will not retain any monies after sixty days which are in excess of the amount necessary to pay expenses it reasonably expects to incur in order to pay the expenses determined in the finding.

- 5.0.4 Upon 50% completion of the Work the retention amount may be lowered to 5% if requested by the Contractor and approved by the Project Manager and Owner. This retention will be paid to the Contractor within sixty (60) days following completion of the work or filing of a notice of completion of the Contract.
- 5.0.5 Before the first Application for Payment, the Contractor shall submit to the Project Manager a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Project Manager may require. This schedule, unless objected to by the Project Manager, shall be used as a basis for reviewing the Contractor's Applications for Payment.
- 5.0.6 At least ten days before the date established for each progress payment, the Contractor shall submit to the Project Manager an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment such as copies of requisitions from Subcontractors and material suppliers, and as the Owner or Project Manager may require, and reflect retainage.
- 5.0.7 Such applications may include requests for payment on completed changes in the Work that have been properly authorized by Construction Change Orders Directives.
- 5.0.8 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless others whom the Contractor intends to pay have performed such Work.
- 5.0.9 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work.
- 5.0.10 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. Contractor shall execute and deliver all documents and/or perform all other acts necessary or required by Owner, consistent with Contractor's warranties under this paragraph, at all such times requested by Owner.
- 5.0.11 The Project Manager will, within seven (7) days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Project Manager determines is properly due, or notify the Contractor and Owner in writing of the Project Manager's reasons for withholding certification, in whole or in part. Project Manager's failure to take action before the expiration of the seven-day period shall be deemed an approval and certification for payment.
- 5.0.12 The issuance of a Certificate for Payment will constitute a representation by the Project Manager to the Owner, based on the Project Manager's evaluation of the Work and the data comprising the

application for Payment, that the Work has progressed to the point indicated and that, to the best of the Project Manager's knowledge, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Project Manager.

- 5.0.13 The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Project Manager has: (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- 5.0.14 The Project Manager may withhold a Certificate for Payment, in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Project Manager's opinion, the required representations to the Owner cannot be made. If the Project Manager is unable to certify payment in the amount of the Application, the Project Manager will notify the Contractor and Owner. If the Contractor and Project Manager cannot agree on a revised amount, the Project Manager will promptly issue a Certificate for Payment for the amount for which the Project Manager is able to make such representations to the Owner.
- 5.0.15 The Project Manager may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Project Manager's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions because of:
- a. Defective Work not remedied;
  - b. Third party claims filed or reasonable evidence indicating probable filing of such claims unless the Contractor provides security acceptable to the Owner;
  - c. Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
  - d. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
  - e. Damage to the Owner or another contractor;
  - f. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - g. PERSISTENT failure to carry out the Work in accordance with the Contract Documents; or
  - h. Contractor's failure to make appropriate provisions for all costs necessary to complete the Project, including, but not limited to, any increased costs resulting from a discrepancy or omission in the Contract Documents.
- 5.0.16 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

## **5.1. Approval of Payments**

- 5.1.1 After the Project Manager has issued a Certificate for Payment, the Owner shall make payment to the Contractor within fourteen (14) days of receiving such Certificate, and shall so notify the Project Manager.
- 5.1.2 The Contractor shall promptly pay each Subcontractor and Material Suppliers (for convenience referred to collectively as “Subcontractors” or “Sub-Subcontractors”), upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- 5.1.3 The Project Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Project Manager and Owner on account of portions of the Work done by such Subcontractor.
- 5.1.4 Neither the Owner, nor the Project Manager, shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.
- 5.1.5 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.
- 5.1.6 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor in trust for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner.
- 5.1.7 Nothing contained herein, however, shall require money to be placed in a separate account and not commingled with money of the Contractor.
- 5.1.8 If, without any justification or excuse permitted by this Agreement, the Project Manager does not issue a Certificate for Payment, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within fourteen (14) day of receipt of such Certificate for Payment, then the Contractor may deliver a written notice to Project Manager and Owner requesting the issuance of a Certificate for Payment, or if one has been issued, for payment of any just and uncontested payment within fifteen (15) days. Contractor shall not be permitted to stop the Work, but shall be entitled to prompt and timely payment of any just and uncontested claim for payment.

## **5.2. Substantial Completion**

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

- 5.2.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Project Manager a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
- 5.2.3 Upon receipt of the Contractor's list, the Project Manager will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Project Manager's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Project Manager. In such case, the Contractor shall then submit a request for another inspection by the Project Manager to determine Substantial Completion.
- 5.2.4 When the Work or designated portion thereof is substantially complete, the Project Manager will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion and be conditioned upon approval from the appropriate governmental authority; shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate.
- 5.2.5 Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
- 5.2.6 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such outstanding Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### **5.3. Partial Utilization**

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

- 5.3.4 Immediately prior to such partial occupancy or use, the Owner, Contractor and Project Manager shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 5.3.5 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## **Article 6: Final Payment**

- 6.0.1 Upon the Project Manager's certification that the Work has been completed and the Contract has been fully performed, all training as been accomplished, all warranties delivered, all as- built drawings and computer files delivered, all documentation including the written concurrence of bonding agencies, if applicable, has been received, and the Owner has accepted the Work, the Owner will make final payment. Final Payment and acceptance of the Work will not relieve the Contractor of its obligation to warrant the Work for a period of one year.
- 6.0.2 In addition to the above, the following required sequence of events for the issuance of final payment by the Yuma County Airport Authority, Inc., is as follows:
- a. In a coordinated effort with the Project Manager's representative, the Contractor will be responsible for the preparation and furnishing of "As-Built" record drawings. The Contractor shall obtain one set of plans from the Project Manager and record, in red colored pencil, all cases where actual field construction differs from Work shown on Plans or Contract Documents. All concealed Work and utility locations will be dimensioned.
  - b. After the construction is complete and the project's disturbed area is stabilized to at least 70% of natural background levels or responsibility of the project has been assumed by another operator, the Contractor must submit to ADEQ a Notice of Termination (NOT) to end participation in AZPDES program. A copy of the Notice of Termination must be provided to the Project Manager and Owner.
  - c. The Contractor's Affidavit Regarding Settlement of Claims is submitted to the Chief Financial Officer, Yuma County Airport Authority, Inc.;
  - d. A copy of the Affidavit and Consent of Surety is sent by the Contractor to the Contractor's Bonding Surety with a request to release final contract payment to the Contractor; and
  - e. Once the Bonding Surety advises, in writing (Consent of Surety) to the Chief Financial Officer, that payment of final contract monies to the Contractor is approved, the Yuma County Airport Authority, Inc., Accounting Division may schedule the issuance of the final payment.

## **Article 7: General Conditions.**

### **7.1. Definitions:**

- 7.1.1 **Owner.** The word "Owner" as used in these documents refers to the Yuma County Airport Authority, Inc. The official representative of the Owner in these proceedings is the Airport Director or his authorized designee.
- 7.1.2 **Engineer.** The word "Engineer" means the Engineer or firm or person, and their properly

authorized assistants and inspectors, designated by the Owner to prepare Plans.

- 7.1.3 **Contractor.** The word “Contractor,” as used in the Project Manual or in the contract, means the person, firm, limited liability company, partnership, or corporation with whom the contract is made by the Owner.
- 7.1.4 **Subcontractor.** The word “Subcontractor” includes those having a direct contract with the Contractor and those who furnish material worked to a special design according to the Plans or Project Manual for this Work but does not include those who merely furnish material not so worked (unless otherwise specified in this Contract).
- 7.1.5 **Plans or Plans and Specifications.** The word “Plans” or “Plans and Specifications,” as used in the Project Manual or in the Contract, means the entirety of the official plans, working drawings or supplemental drawings or exact reproductions thereof, authorized by the Yuma County Airport Authority, Inc., which show the locations, character, dimensions and details of the project and the Work to be done and which are to be considered as a part of the contract, supplementary to the Project Manual.
- 7.1.6 **Project Manager.** The word “Project Manager” as used in these documents refers to the Project Manager, firm or person, designated by the Owner to administer the construction of the Work.

## 7.2. Project Administration.

- 7.2.1 In conformance with Arizona Revised Statutes §42-5006 and the Arizona Department of Revenue criteria concerning construction project tax liabilities and, as a requirement of this Contract, the Contractor must provide to Yuma County Airport Authority, Inc., one of the following documents:
- a. A copy of the Tax Liability Bond issued by the Arizona Department of Revenue, naming this specific project as being bonded.
  - b. A current Bond Exemption Certificate issued by the Arizona Department of Revenue, naming this specific project as being exempt.
- 7.2.2 The Finance Office will issue the project’s Notice to Proceed and Notice of Completion documentation signed by the Airport Director.
- 7.2.3 The Contractor shall comply with the Arizona Pollutant Discharge Elimination System (AZPDES) storm water Phase II requirements and in particular the Construction General Permit # AZG2003-001. The cost of such compliance must be incorporated into the appropriate Bid Form line item cost(s) and no separate payment will be made for this compliance.
- 7.2.4 Prior to, and as a prerequisite of the Notice to Proceed, the Contractor shall provide the Project Manager with the following submittals for review and approval:
- a. Proposed project materials
  - b. Construction schedule
  - c. Schedule of Values for anticipated payment requests
  - d. Statement of Acceptance of the Construction Safety and Phasing Plan (CSPP) and Safety Plan Compliance Document (SPCD)
  - e. Safety Data Sheets (SDS) – (as of 12/01/2015)
  - f. Traffic Control Plan
  - g. Notification to Airport Tenents and/or businesses to be affected by the project, advising them of the type and approximate duration of the project.



- h. Listing of after-hours/emergency contact personnel for the Contractor and subcontractor(s).
  - i. Certificates of training for all workers who will be cutting, tapping, or handling asbestos cement pipe.
  - j. A complete and accurate Notice of Intent (NOI) for coverage under the Arizona Pollutant Discharge Elimination System (AZPDES) Construction General Permit No. AZG2003-001 to be submitted to Arizona Department of Environmental Quality (ADEQ).
  - k. Concurrently with the Notice of Intent (NOI), the Contractor shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP). A copy of the SWPPP must be provided to the Engineer. The SWPPP must be available for ADEQ review.
  - l. Written designation of a “competent person”, in accordance with the definition in 29 CFR Part 1926.650, if excavation is required. This person shall remain on the Project site during all construction activities associated with his/her field of competency.
  - m. Additionally, contractor shall submit certification that the competent person has successfully completed a minimum of eight (8) hours of OSHA training related to that field of competency.
  - n. A design plan and data for all project areas in which excavation in excess of twenty feet (20’) is anticipated or planned, in accordance with 29 CFR Part 1926.650-652.
- 7.2.5 Contractor must submit all monthly estimates and final billing concurrently to the Project Manager (copy) and to the Accounting Division (original), Yuma County Airport Authority, Inc., for review and approval prior to payment.
- 7.2.6 The Contractor shall notify the Project Manager immediately of any conditions requiring changes to the Plans or Contract Documents.

### **7.3. Safety**

- 7.3.1 Occupational Safety and Health Act (OSHA) Standards for General Industry and Construction (Title 29, Code of Federal Regulations, Parts 1910 and 1926 as amended) and the FAA's Environmental Health and Safety Regulations are applicable in this Contract.
- 7.3.2 Prior to the issuance of the project's Notice to Proceed, the Contractor, as defined in the beginning of these General Conditions, must submit a statement of acceptance of the Airport's Safety and Security Plan for the specific Work to be undertaken. This Plan addresses the minimum considerations for all phases of construction to be undertaken, as called out in this Contract. The Plan also address measures to control hazards associated with materials (SDS), equipment, and safety inspections. The Contractor may augment the Airport Safety and Security Plan as necessary. Any changes must be submitted for approval.
- 7.3.3 The Contractor must provide the name of a designated safety person for coordination during the life of the project.
- 7.3.4 The after-hours or emergency response sequence to be utilized for this project is as follows. The Contractor, at its cost, will respond to the site of the problem and stabilize the situation by:
- a. Erecting traffic control signs and barricades to safely divert traffic/motorists and/or pedestrians from the problem area.
  - b. Contacting the City of Yuma Water Division to close any valves, as may be necessary.

- c. Contacting the Project Manager responsible for the project or if the Project Manager is not available, contacting the Yuma County Airport Authority, Inc., Maintenance Director or the Airport Operations Officer on duty.
- d. Commencing such remedial activities as may be necessary to stabilize the site and protect any adjacent infrastructures.

7.3.5 The Contractor must keep the Yuma County Airport Authority, Inc., Maintenance Director; the Airport Operations Office; and the Project Manager informed of all restrictions to traffic flow due to the construction operations.

7.3.6 The Contractor must protect both pedestrians and vehicular traffic at all times with properly positioned warning signs, devices and / or flaggers. All traffic control must be in accordance with the Manual of Uniform Traffic Control Devices and with applicable Arizona and local codes. The Contractor must submit a traffic control plan to the Owner for review and approval prior to the start of construction.

- a. The Contractor is responsible for the inspection of all traffic control installations used in conjunction with this project and shall inspect, at least twice daily, to ensure same conforms to the approved Traffic Control Plan. It is recommended that this inspection take place at the start and end of each workday, and approximately the same time on non-working days and at such times as felt such inspection may be required.
- b. The Contractor must provide the Engineering Division the name and telephone number of those persons responsible for these inspections and who are available for emergency after-hours call out.
- c. No separate payment will be made for the activities set forth in this Section.
- d. All signs, barricades and warning devices utilized during this Project must:
  - 1) Be installed in accordance with a plan that has been provided to the Owner by a firm or personnel certified in the area of construction traffic control by the American Traffic Safety Services Association (ATSSA) or the International Municipal Signal Association (IMSA) and said plan has been accepted by the Owner, and;
  - 2) Be installed and maintained by a firm or personnel certified in the area of construction zone traffic control by either ATSSA or IMSA.
  - 3) Be National Cooperative Highway Research Program (NCHRP) Report 350 compliant.

Upon request, the Contractor must furnish the Owner with documentation to verify that such certifications are current.

7.3.7 Contractors having questions concerning these regulations and the implications of same should contact the Yuma County Airport Authority, Inc. In addition, the Contractor will:

- a. Restrict movement of construction vehicles to construction areas by flagging and barricading, erecting temporary fencing, or providing escorts, as appropriate.
- b. Ensure that no construction employees, employees of subcontractors or suppliers, or other persons enter any part of the Air Operations Areas (AOA) from the construction site unless authorized.

7.3.8 The Contractor will erect and maintain all necessary safeguards as required by FAA regulations, the conditions and progress of the Work, including posting danger signs and other warnings against

hazards and promulgating safety regulations.

- 7.3.9 The Contractor shall be responsible for barricading all work areas during the construction of this project. The Contractor shall prepare and submit a barricading plan to the Owner at the pre-construction conference. It shall be the total responsibility of Contractor to maintain the barricades, lights, signs, and all other items required for the safe conduct of the project.
- 7.3.10 Contractor shall provide lighted barricades and aircraft apron lights for use at night, and shall maintain all lighted fixtures for the duration of the project. Contractor shall designate an employee who will be responsible for the maintenance of the barricades and lighting system on a 24-hour basis, and shall provide a phone number where the responsible party can be reached on a 24-hour basis.
- 7.3.11 Contractor's employee will notify Owner of adjacent utilities when prosecution of the work may affect them. When the use or storage of hazardous materials is necessary for the prosecution of the Work, the Contractor will exercise the utmost care and will carry on such activities under the supervision of properly qualified personnel.
- 7.3.12 All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by the Contractor.
- 7.3.13 The Contractor will designate a responsible member of its organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Owner. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Owner, is obligated to act, at its discretion, to prevent threatened damage, injury, or loss. It will give the Owner prompt written notice of any significant changes in the Work or deviations involved. If the Contractor believes that additional emergency work by him which arose from causes beyond its control entitles him to an increase in the Contract Price or an extension of the Contract Time it may make a claim therefore as provided in the Change Order Section.
- 7.3.14 No separate payment will be made for any of the items set forth in this Section.

#### **7.4. Progress Schedules, Progress Meetings and Pre-construction Conference**

- 7.4.1 Progress Schedule: The Contractor will submit an estimated progress schedule to the Owner for approval at the pre-construction conference. This schedule will indicate the starting and completion dates of the various stages of the Work, and (if required) will include a schedule of Shop Drawing submissions. This schedule will be updated at least monthly.
- 7.4.2 Progress Meetings: The Contractor shall schedule and hold weekly progress and safety meetings in the Airport Conference room on the 2<sup>nd</sup> floor of the airport terminal building and at other times as requested by the Owner or required by progress of the Work. The Contractor, the Owner, and all Subcontractors active on the site shall be represented at each meeting. The Contractor may, at its discretion, request attendance by representatives of its suppliers, manufacturers, and other Subcontractors.
- 7.4.3 The Contractor shall preside at the meetings. The Owner will provide for keeping of the minutes

and provide a copy of the minutes online. The purpose of the meetings will be to review the progress of the Work, maintain coordination of efforts, discuss changes in procedures and personnel, safety issues, and resolve other problems that may develop.

7.4.4 Pre-construction Conference: Prior to the commencement of Work at the site, a pre- construction conference will be held at the Airport Conference Room at a mutually agreed upon time within ten workdays of the Notice of Award. The conference shall be attended by:

- Contractor and its superintendent
- Principal Subcontractors
- Representatives of principal suppliers and manufacturers as appropriate
- Representatives of Owner including the Consultant, Project Manager and Engineering Design Firms
- Others as requested by the Contractor or the Owner

7.4.5 Unless previously submitted to the Owner, the Contractor shall bring to the conference each of the following:

- Material Sources
- Materials Test Results and Certification
- List of Equipment to be utilized
- Description of Procedures and Work Crews

7.4.6 The agenda will include:

- Contractor's tentative schedules
- Critical Work sequencing
- Transmittal, review, and distribution of Contractor's submittals
- Field decisions and Change Orders
- Use of premises, office and storage areas, security, housekeeping, and Owner's needs
- Major equipment deliveries and priorities
- Maintaining record documents
- Processing applications for payment
- Contractor's assignments for safety and first aid

7.4.7 The sequence of operations to be followed shall be prepared by the Contractor for approval by the Owner. The sequence shall meet the job requirements for completion time, avoid interference with Airport operations and shall conform to Plans and Specifications requirements.

## **7.5. Access**

The Owner will provide the Contractor with access to the property upon which the Work is to be done within five workdays AFTER the Contractor and its employees have obtained the necessary training required to operate inside the Airport Operations Area (AOA) and Secure Areas as identified by the Department of Homeland Security.

## **7.6. Physical and Subsurface Conditions**

The information contained in the Contract Documents in regard to topography, subsurface soils, subsurface structures, and any quantities based thereon, is furnished solely for the convenience of the Contractor as information available at the time. The accuracy of this information is not guaranteed and the Contractor is fully and solely responsible to verify and/or corroborate pertinent information prior to bid time. Use of the information provided in no way relieves the Contractor or others of any responsibility for loss or increased cost due to inaccuracies or deviations that may be encountered.

## **7.7. Reference Points**

The Owner will establish such general reference points as will enable the Contractor to proceed with the Work. The Contractor will be responsible for the layout of the Work and will protect and preserve the established reference points and will make no changes or relocations without the prior written approval of the Owner. It will report to the Owner whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. The Contractor will replace and accurately relocate all reference points so lost, destroyed, or moved.

## **7.8. Use of Premises**

The Contractor will confine its equipment, the storage of materials and equipment, and the operations of its workmen to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment.

## **7.9. Provisions for Handling Emergencies.**

7.9.1 It is possible that emergencies may arise during the progress of the Work which may require special treatment or make advisable extra crew shifts to continue the Work for twelve (12), eighteen (18), or even twenty-four (24) hours per day. These emergencies may be caused by damage or possible damage to nearby existing structures or property, or by accidents. The Contractor must be prepared in case of such emergencies, to make all necessary repairs, and will promptly execute such Work when required by the Engineer.

7.9.2 The after-hours/emergency response sequence to be utilized for this project is as follows. The Contractor will respond to the site of the problem and stabilize the situation by:

- a. Erecting traffic control signs and barricades to safely divert vehicles/aircraft/pedestrians from the problem area.
- b. Contacting the appropriate City of Yuma Division, as may be necessary.
- c. Contacting the Project Manager responsible for the project or if the Project Manager is not available, contacting the Yuma County Airport Authority, Inc. Maintenance Director or the Airport Operations Officer on duty.
- d. Commencing such remedial activities as may be necessary to stabilize the site and protect any adjacent infrastructures.

7.9.3 No separate payment will be made for any of the items set forth in this Section.

## **7.10. Asbestos Cement Pipe.**

7.10.1 All Contractors engaged by the Yuma County Airport Authority, Inc., to undertake construction involving repair, modification, removal and/or disposal of asbestos cement (cement asbestos) pipe must comply with those worker training requirements stipulated in 29 CFR 1926.1101, the Asbestos NESHAP regulations contained in 40 CFR 61 and special waste management rules for

friable A.C.M. contained within Arizona Administrative Code R18-8-301/306, as well as subsequent amendments to or superseding documents concerning the above regulations.

7.10.2 The Contractor shall remove and dispose of all waste or scrap A.C. pipe generated during the course of the project, unless specifically noted otherwise in the contract documents.

### **7.11. Delays.**

7.11.1 If any delay is caused the Contractor by specific order of the Project Manager to stop work or by failure of the Owner to provide the necessary right-of-way or site for installation, or by such unforeseen causes beyond the control of the Contractor, such delay will entitle the Contractor to an equivalent extension of time, except as otherwise provided hereinafter under Suspension of Work. Provided, however, that when delay is caused by an order to suspend Work given on account of climatic conditions which in the opinion of the Project Manager could have been reasonably foreseen, the Contractor will not be entitled to any extension of time on account of such order.

7.11.2 Application for extension of time must be approved by the Project Manager and must be accompanied by the formal consent of the sureties, but an extension of time, whether with or without such consent, must not release the sureties from their obligations, which will remain in full force until the discharge of the Contract.

7.11.3 Standby time, if required, will be considered a delay to the project and, as such, will be addressed in accordance with the provisions of this section.

### **7.12. Suspension of Work.**

The Owner reserves the right to suspend the whole or any part of the Work herein specified, if deemed in its interest to do so, without compensation to the Contractor for such suspension other than extending the time for completing the Work as much as it may have been delayed by such suspension. No allowance by way of damages will be made for any such delay.

### **7.13. Project Manual and Plans.**

The Contractor must keep on the Work SITE a copy of the Project Manual and Plans, and will at all times give the Project Manager access thereto. Any Drawings or Plans listed in the Project Manual will be regarded as part of the Contract. Anything mentioned in the Project Manual and not shown on the Plans, or shown on the Plans and not mentioned in the Project Manual will be deemed as if shown as a part of this Contract. The Project Manager may furnish from time to time such additional drawings, plans, profiles, and information, as he may consider necessary for the Contractor's guidance.

### **7.14. Lines and Grades.**

7.14.1 All Work under this Contract must be built in accordance with the lines and grades shown on the Plans and as given by the Engineer. The Engineer will furnish only the basic reference lines and bench marks from which the Contractor will establish such other points as he may need, except as otherwise specified herein. The protection and care of such references is the responsibility of the Contractor and any references lost or destroyed will be replaced only at the Contractor's expense.

7.14.2 The Contractor's stakes and grades are subject to check by the Project Manager for compliance with the Plans and Project Manual. The Contractor must keep the Project Manager informed a reasonable

time in advance, at least twenty-four (24) hours, as to his needs for checking lines and grades and for setting stakes in order that the same is done and all necessary measurements are made for record and payment with the minimum of inconvenience to the Project Manager or of delay to the Contractor.

### **7.15. Contractor's Supervision and Superintendence**

- 7.15.1 The Contractor will supervise and direct the Work efficiently and with its best skill and attention. It will be solely responsible for the means, methods, techniques, safety, sequences, and procedures of construction. Before undertaking the Work, it will carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. It will immediately file a written report to the Owner and Project Manager concerning any actual or apparent conflict, error, or discrepancy that it may discover. The Contractor will be responsible for seeing that the finished Work complies accurately with the Contract Documents, notwithstanding.
- 7.15.2 The Contractor will keep a resident superintendent, approved by the Owner, on the Work site at all times during its progress. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.
- 7.15.3 The Contractor will provide competent, suitably qualified personnel to lay out the Work and perform construction as required by the Contract Documents. It will at all times maintain good discipline and order among its employees at the site. If the Owner assists the Contractor in the field layout, the Contractor shall furnish personnel to aid the Owner in such work. Contractor shall furnish all stakes and lathes for such layout.
- 7.15.4 The Owner will not be responsible for the acts or omissions of the Contractor, or any Subcontractors or Material Suppliers, or any of its or their respective agents or employees, or any other persons performing any of the Work.
- 7.15.5 During unfavorable weather, wet ground, or other unsuitable construction conditions, the Contractor shall confine its operations to work that will not be affected adversely by such conditions. No portion of the Work shall be constructed by Contractor under conditions that would adversely affect the quality or efficiency thereof, or compromise the safety or any workers or persons onsite, unless special means or precautions are taken by the Contractor to perform the work in a safe, proper and satisfactory manner.

### **7.16. Character of Workmen.**

- 7.16.1 Only skilled foremen and workmen will be employed on Work requiring special qualifications.
- 7.16.2 When required by the Project Manager, the Contractor shall remove from this project and any other project Contractor is performing for the Owner any person who commits trespass, or is, in the opinion of the Project Manager or Owner, disorderly, dangerous, insubordinate, or incompetent. The Contractor shall save harmless and fully indemnify the Owner, the County of Yuma and the Project Manager from any expense, damage or claims for compensation that may arise due to the enforcement of this section of the Contract.

### **7.17. Material and Workmanship.**

- 7.17.1 All material must be of the specified quality, and equal to the approved samples, if samples have been submitted. All Work must be done and completed in a thorough, workmanlike manner, notwithstanding any discrepancy or omission from the Project Manual or from the Plans. It is the duty of the Contractor to call the Project Manager's attention to apparent errors or omissions, and request instructions before proceeding with the Work.
- 7.17.2 All defective Work or material must be removed from the premises by the Contractor, whether in place or not, and must be replaced with new and satisfactory Work or material in such manner as the Project Manager may direct. All material and workmanship of whatever description is subject to the inspection of, and rejection by the Project Manager, if not in conformance with the specifications.
- 7.17.3 On all questions concerning the acceptability of material, machinery and classifications of material, execution of the Work, conflicting interest of Contractor's performance of related Work, and the determination of costs (within the bounds permitted by the Contract Amount), the decision of the Project Manager is final and binding upon all parties.
- 7.17.4 Any defective material or workmanship, or any unfaithful or imperfect Work which may be discovered before the final acceptance of the Work must be corrected immediately at the request of the Project Manager or Owner, without extra charge, notwithstanding that it might have been overlooked in previous inspections. Failure to inspect Work does not relieve the Contractor from any obligation to perform sound and reliable Work as herein specified.

#### **7.18. Infringement of Patents.**

The Contractor shall hold and save the Owner and County of Yuma, and their respective officers, directors, agents and employees harmless from and against all and every demand or demands of any nature or kind, for or on account of the use of any patented invention, article or appliance, included in the material or supplies hereby agreed to be furnished under the contract. The Contractor must secure and file with his proposal such valid license as may be requisite and necessary to enable the Owner, its officers, agents and employees, or any of them to use such invention, article, material or appliance, without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. If the Contractor neglects to secure such licenses as may be necessary and requisite for the purpose aforesaid, then in that event the Owner may, at its option, refuse to consider such bid.

#### **7.19. Methods and Appliances.**

The methods and appliances adopted by the Contractor must be such as will, in the opinion of the Project Manager, secure a satisfactory quality of work and will enable the Contractor to complete the Work in the time agreed upon.

#### **7.20. Subcontractors.**

- 7.20.1 If any part of the Work to be done under this Contract is subcontracted, the subcontracting must be done in accordance with, and the Contractor agrees to be bound by, the following provisions:
- a) All subcontracts must be in writing and must provide that all Work to be performed thereunder will be performed in accordance with the terms of the Contract. All



subcontracts must be approved by the Project Manager before said subcontract is executed.

- b) The subcontracting of any or all of the Work to be done will in no way relieve the Contractor of any part of his full responsibility under the Contract. In case the terms of the subcontract are, in the opinion of the Project Manager, unsatisfactory from the standpoint of the Owner, or in case the Work being done under any subcontract is not conducted in a manner satisfactory to the Project Manager, the Contractor must, upon written notice to this effect, cause such subcontract to be terminated and the subcontractor and his employees to be removed from the Work. Any loss or damage that may be suffered on account of such action will be borne by the Contractor only.
- c) Prior to the execution and delivery of the Contract, the successful Bidder will submit to the Owner for acceptance a list of the names of Subcontractors and such other persons and organizations (including those who are to furnish materials or equipment fabricated to a special design) proposed for those portions of the Work as to which the identity of the Subcontractors and other persons and organizations must be submitted as specified in the Contract Documents.
- d) Prior to the execution and delivery of the Contract, the Owner will notify the successful Bidder in writing if, after due investigation, there is objection to any Subcontractor, person, or organization on such list. The failure of the Owner to make any such objection prior to the execution and delivery of the agreement shall constitute an acceptance of such Subcontractor, person, or organization. Such acceptance of any such Subcontractor, person or organization shall not constitute a waiver of any right of the Owner to reject defective Work, material, or equipment, or Work, material, or equipment not in conformance with the requirements of the Contract Documents.
- e) If the Owner registers objection to and refuses to accept any Subcontractor, person, or organization on such list, prior to execution and delivery of the Contract, the successful Bidder may either (1) submit an acceptable substitute without an increase in his Bid price or (2) withdraw his Bid. If the Owner raises objection to any Subcontractor, person, or organization on such list after the execution and delivery of the Agreement, the Contractor will submit an acceptable substitute and, upon the express written consent of the Owner, the Contract Price may be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued. In the event that prior objection is raised as described above, but the Contractor fails to submit an acceptable substitute prior to execution and delivery of the Contract, no increase in contract price shall be allowed.
- f) The Contractor will not employ any Subcontractor (whether initially or as a substitute) against whom the Owner may have objection, nor will the Contractor be required to employ any Subcontractor against whom he has objection. The Contractor will not make any substitution for any Subcontractor who has been accepted by the Owner.
- g) The Contractor will be fully responsible for all acts and omissions of his Subcontractors, Material Suppliers, and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor or Material Supplier and the Owner or any obligation on the part of the Owner to pay or to see to the payment of any moneys due any Subcontractor or Material Supplier, except as

may otherwise be required by law. The Owner may furnish to any Subcontractor or Material Supplier, to the extent practicable, evidence of amounts paid to the Contractor on account of specific work done.

- h) The divisions and sections of the Specifications and the identifications of any drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any trade.
- i) The Contractor agrees to specifically bind every Subcontractor to all of the applicable terms and conditions of the Contract Documents. Every Subcontractor, by undertaking to perform any of the Work, will thereby automatically be deemed to be bound by such terms and conditions.

### **7.21. Relations to Other Work.**

The Contractor will so far as practicable, arrange his Work and dispose of his materials in such a manner as not to interfere with any other work which may be scheduled for the same area, and must arrange to perform his Work in proper sequence with other work. When two or more Contractors are engaged in installation or construction work in the same vicinity, the Project Manager is authorized to direct the order, manner and rate in which each may conduct his Work so far as it affects other contracts.

### **7.22. Work by Others**

- 7.22.1 The Owner may perform additional work related to the Project by itself, or may let other direct contracts therefor. The Contractor will afford the other contractors who are parties to such direct contracts (or the Owner, if it is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate its Work with theirs.
- 7.22.2 If any part of the Contractor's Work depends upon the work of any such other contractor or the Owner for proper execution or results, the Contractor will inspect the work and promptly report any defects or deficiencies in writing to the Owner. Failure to make such a report shall constitute an acceptance of the other work as fit and proper for the relationship of its Work, except as to defects and deficiencies which may appear in the other work after the execution of its work.
- 7.22.3 The Contractor will do all cutting, fitting, and patching of its Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. The Contractor will not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of the Owner.
- 7.22.4 If the performance of additional work by other contractors or the Owner is not noted in the Contract Documents prior to the award of the contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the Owner or others involves him in additional expense or entitles him to an extension of the Contract Time, it may make a claim therefor as provided in Sections concerning Change Orders.

### **7.23. Protection of Person and Property.**

- 7.23.1 The Contractor must protect against injury any public or private lawns, gardens, shrubbery or trees encountered in the Work. All obstructions to traffic must be guarded by barriers and illuminated

at night. The Contractor must not trespass upon private property. Access to private property will be by written permission of the property owner as obtained by the Contractor.

- 7.23.2 Under all circumstances the Contractor must comply with the laws and regulations relative to the safety of persons and property and the interruption of traffic, as well as the convenience of the public. The Contractor will be held responsible for and required to make good at his own expense, all damage to persons and property caused by carelessness or neglect on the part of the Contractor or subcontractor, or the agent or employees of either, during the progress of the Work and until its final acceptance.
- 7.23.3 Prior to the commencement of construction, the Contractor must contact adjacent property owners, who have structures such as fences, buildings, etc. adjacent to the proposed construction and note with the Owner deficiencies that exist. Further deficiencies caused by the Contractor must be repaired to the satisfaction of the Owner at the cost of the Contractor.

#### **7.24 Permits, Laws, Taxes, and Regulations.**

- 7.24.1 The Contractor will pay for city fees and permits directly to the City. The Contractor is responsible for procuring all permits and licenses; and accomplishing all other task associated with permits, fees, giving any notices necessary in performing the Work including all governmental and public utility inspections necessary for the prosecution of the Work.
- 7.24.2 The Contractor will give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If the Contractor observes that the Specifications or Drawings are at variance therewith, it will give prompt written notice thereof to the Owner and any necessary changes shall be adjusted by an appropriate field change. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Owner, it will bear all costs arising therefrom.
- 7.24.3 The Contractor will pay all sales, consumer, and other similar taxes required by the law of the place where the Work is to be performed.

#### **7.25. Utilities.**

- 7.25.1 Locations of existing public utility lines (including, without limitation, gas, electric, water, sewer, cable, telephone, fiber optic, etc.) shown on the plans are approximate only. Where Work is to be performed adjacent to or across utility lines, the Contractor must verify the locations in the field and take the necessary precautions. The Contractor must contact the local utility companies before trenching across any existing underground utility line. Any damage to a utility shall be repaired at the Contractor's expense and the Yuma County Airport Authority, Inc. will not be responsible for any direct or indirect damage to utilities.
- 7.25.2 It is the Contractor's responsibility, in accordance with Arizona Revised Statutes §40-360.21 et seq., to notify Arizona Blue Stake (800-782-5348) at least forty-eight (48) hours in advance of beginning construction.
- 7.25.3 Omissions from, or inclusion of utility locations on plans, is not to be considered as the non-existence of, or definite location of, existing underground utilities.
- 7.25.4 Adjustment of utility facilities other than those of Yuma County Airport Authority, Inc. will be the responsibility of that particular utility, i.e. CenturyLink, Southwest Gas Corporation, Arizona

Public Service Company, City of Yuma and Time Warner. The Contractor will notify and coordinate with said companies to assure the Work is completed in an expeditious manner.

## **7.26. Irrigation Ditches.**

Where the Work involves the crossing or cutting into irrigation ditches, canals or waste ditches, the Contractor must make such arrangements with the operators of such ditches as may be necessary to avoid delays in irrigation service and damage to the Work. Any ditch so cut shall be restored to its original condition in the shortest time practicable.

## **7.27. Changes in the Work.**

- 7.27.1 The Owner, without invalidating the Contract, may order a change to the Work by altering, adding to, or deducting from the Work, the Contract being adjusted as specified herein. All such Work will be executed under the conditions of the original Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change. Such Work will be governed by all applicable provisions of the Project Manual.
- 7.27.2 In order to facilitate the need for field modification documentation; the Project Manager will direct the increase or reduction of the scope of Work using the Change Order Form found in this Project Manual with the concurrence of Owner. While the change to the Work can direct or authorize increases in Work, payment for that additional Work, if such additional payment is so authorized by Owner, cannot be processed until the Contract has been modified through issuance of a Change Order, which may address several changes to the Work.
- 7.27.3 At the time of the project pre-construction conference the Contractor must identify to the Project Manager those personnel authorized to execute Change Orders on the behalf of the Contractor. This identification must be in writing and bear the notarized signature of an officer for the Contractor.
- 7.27.4 Any change in the Work that will increase the cumulative total amount of the Contract by more than \$50,000 shall require the concurrence of the Board of Directors of the Yuma County Airport Authority, Inc. All other adjustments to the Contract Amount may be authorized by the written consent of the Airport Director.
- 7.27.5 In giving instructions, the Project Manager has authority to make minor changes in the Work not involving extra cost and not inconsistent with the purposes of the Work, but otherwise, except in an emergency endangering life or property, no extra work or change will be made unless in pursuance of a written order by the Project Manager; and no claim for an addition to the total amount of the Contract will be valid unless so ordered in a written Change Order.
- 7.27.6 The value of any such change may be determined in one or more of the following ways with the concurrence of the Airport Director, or where required, the Board of Directors of the Yuma County Airport Authority, Inc.:
- a) By Contractor's estimate of the Actual Cost and the Project Manager's recommendation of acceptance of a lump sum;
  - b) By unit prices named in the Contract or subsequently agreed upon;
  - c) By actual cost, with fifteen percent (15%) added for superintendence, use of tools and profit.

- 7.27.7 Actual Cost will include the cost of labor, material, insurance, bonds, taxes, and equipment rental. The cost of labor is the amount paid for same as shown by the payrolls of the Contractor. The cost of insurance and bonds may be added when such can be shown to have been paid. The cost of material is the actual price paid for same delivered at the site of the Work. Fifteen percent (15%) will not be added to any unit or lump sum prices herein specified. In case the Work is performed by a subcontractor, the said fifteen percent (15%) will be added only once to the actual cost of the Work; however, the Contractor may add five percent (5%) to the subcontractor's price to cover his own overhead.
- 7.27.8 If none of the above methods is agreed upon, assuming the adjustment in the Contract Amount has been approved by Owner, the Contractor, provided he receives an order as above, shall proceed with the Work and may be paid as Owner directs. In such case the Contractor must keep and present daily to the Project Manager a complete, thorough, written breakdown of all labor, materials, and equipment covering all extra Work for the previous day. The Project Manager and Owner reserve the right to examine the Contractor's payroll and all other Contractor's records pertaining to the costs of materials, equipment, labor, and other applicable documents.
- 7.27.9 If the Contractor, on account of conditions developing during the progress of the Work, finds it impracticable to comply strictly with this Project Manual and applies in writing for a modification of requirements or of methods of work, such change may be made or authorized by the Project Manager if not detrimental to the Work or outside the reasonable expectations of the Owner or granting agency, and if without additional cost to the Owner.

## **7.28 Change of Contract Time.**

- 7.28.1 The Contract Time may only be changed by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an extension in the Contract Time, its claim shall be in writing delivered to the Owner and Project Manager within 10 days of the occurrence of the event that gives rise to the claim. The Owner, in consulting with Project Manager, shall determine all claims for adjustment in the Contract Time. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 7.28.2 The Contract Time may be extended in an amount equal to time lost due to delays entirely beyond the control of the Contractor if it makes a claim as provided in this section. Such delays shall include fires, floods, labor disputes, epidemics, abnormal weather conditions, acts of God, or other occurrences of a similar nature.
- 7.28.3 Time limits stated in the Contract Documents are of the essence in this Agreement. The provisions of this Section shall not exclude recovery for damages (including compensation for additional professional services) for delay by either the Contractor or the Owner, if permitted by Arizona law and not disclaimed by this Agreement.

## **7.29. Roads.**

The Contractor must keep open streets and roads subject to interference by the prosecution of the Work, covered by this Contract until the Work is completed, unless otherwise approved by the Project Manager and Owner.

## **7.30. Land.**

The land on which the Work of this Contract is to be performed will be provided by the Owner.

### **7.31. Sanitation.**

- 7.31.1 The Contractor must establish and police sanitary rules and regulations for all forces employed under the contract. If the Contractor fails to enforce these rules the Owner may enforce them at the expense of the Contractor.
- 7.31.2 It is the Contractor's responsibility to provide adequate sanitary facilities on the locale of the project for use by the Contractor's employees.

### **7.32. Night Work.**

The Contractor may also be permitted or required to work at night, if in the opinion of the Project Manager such work is necessary to maintain the required progress or protect the Work from the elements. If ordered or permitted to work nights, the Contractor must provide sufficient and satisfactory lighting and other facilities. The Contractor will receive no extra payment, but compensation will be considered as being included in the prices that formed the basis of the Contractor's bid.

### **7.33. Disposal of Excavated Material.**

- 7.33.1 Before any arrangements for disposal of excavated materials are made, the Contractor will consult with the Owner, and the Owner will have first claim on all excavated materials. In the event the Owner refuses all or part of the excavated materials, it is the responsibility of the Contractor to make arrangements for and dispose of such materials.
- 7.33.2 Should soils excavated under the project be deposited upon properties within the Yuma County Airport Authority, Inc., the site and proposed plan for placement of fill must first be reviewed and approved by the Project Manager to assure conformance with the City's Drainage Policy (Ordinance Nos. 1670 and 1836).

### **7.34. Protection of Work.**

The Contractor is responsible for the care of all Work until its completion and final acceptance, and the Contractor must at his own expense replace damaged or lost material and repair damaged parts of the Work, or the same may be done at the Contractor's expense by the Owner, and the Contractor and his sureties will be liable therefor. All new concrete construction that becomes broken or shows evidence of cracks must be completely replaced at the Contractor's expense. Under no circumstances will patchwork be performed to repair new concrete Work. The Contractor takes all risks from weather and casualties, and may not make any charge for delay from such causes. The Contractor may, however, be allowed a reasonable extension of time on account of such delays, subject to the conditions herein specified. The Contractor will remove from the vicinity of the completed Work all plant equipment and materials belonging to the Contractor or used under the Contractor's direction during construction. The Contractor must clean up all waste or excess materials within the established work limits within the project so as to make a neat and workmanlike finish to the entire project, and in the event of the Contractor's failure to remove said materials, the same may be removed by the Owner at the expense of the Contractor, and the Contractor and his sureties will be liable therefor.

### **7.35. Cleaning Up**

- 7.35.1 The Work in this contract will take place on an active airport, near powered aircraft. Aircraft engines, particularly jet or turbine powered, are very expensive and susceptible to Foreign Object

Damage (FOD). The Contractor is responsible for all damage to aircraft engines resulting from construction related FOD. On a daily basis the Contractor will conduct a FOD inspection and remove or control all potential FOD items. An extra effort will be made to thoroughly clean the area prior to close of business on Fridays.

- 7.35.2 The Work in this contract will take place on an active airport, near passengers, airport tenants and other customers who expect a clean and neat facility that is unmarred by construction debris. The Contractor will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work, and at the completion of the Work it will remove all waste materials, rubbish, and debris from and about the premises, as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the Owner. The Contractor will restore to their original or better condition those portions of the site not designated for alteration by the Contract Documents.
- 7.35.3 Volatile wastes shall be properly stored in covered metal containers and removed daily. Wastes shall not be buried or burned on the site or disposed of into storm drains, sanitary sewers, streams, or waterways. All wastes shall be removed from the site and disposed of in a manner complying with local, state, and federal laws.
- 7.35.4 Adequate cleanup will be condition for recommendation of progress payment applications.
- 7.35.5 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

### **7.36. Inspection by Project Manager.**

- 7.36.1 IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO CONSTRUCT THE WORK IN STRICT ACCORDANCE WITH THE PLANS, CONTRACT DOCUMENTS, AND PROJECT MANUAL. INSPECTION BY THE PROJECT MANAGER PRIOR TO THE FINAL INSPECTION WILL NOT RELIEVE THE CONTRACTOR OF THIS RESPONSIBILITY.
- 7.36.2 The Project Manager will:
- a) Be present during the construction of all site concrete items of Work.
  - b) Inspect all form work for any unauthorized items prior to placement of concrete. The Contractor must notify the Project Manager one day in advance of when the Work will be ready for inspection.
  - c) Inspect placement of concrete and make necessary tests. The Contractor must notify the Project Manager one day in advance of the intended time of concrete placement.
- 7.36.3 The Project Manager may require that a sample section of curb and gutter, curb, sidewalk or other concrete items be constructed and finished to the satisfaction of the Project Manager before the Contractor is permitted to proceed with construction.
- 7.36.4 The Project Manager will inspect all trenches for pipe or other utilities prior to the installation of the pipe or utilities. The Project Manager may be present during all pipe-laying operations. The Project Manager will require satisfactory operation tests of all utility lines. The Contractor must notify the Project Manager at least one day in advance of the time of need for an inspection or the intended performance of any of the items of construction.

### **7.37. Access to the Work and Uncovering Finished Work**

- 7.37.1 The Owner and its representatives will at all times have access to the Work. The Contractor will

provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

- 7.37.2 If any Work is covered contrary to the request of the Owner, it must be uncovered for observation and replaced at the Contractor's expense, if requested by the Owner.
- 7.37.3 If any Work has been covered which the Owner has not specifically requested to observe prior to its being covered, or if the Owner considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Owner's request, will uncover, expose, or otherwise make available for observation, inspection or testing that portion of the Work in question. The Contractor will furnish all necessary labor, material, and equipment. If it is found that such Work is defective or does not meet the requirements of the Contract Documents, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection, and testing and professional services. An appropriate Change Order shall be issued deducting all such costs from the Contract Price. If, however, such Work is found to be non-defective and meets the requirements of the Contract Documents, the Contractor will be allowed an increase in the Contract Price or extension of the Contract Time directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction if it makes a claim therefore as provided in the Change Order Section, and the amount of such increase is approved by the Airport Director or, if required, the Board of Directors of the Yuma County Airport Authority, Inc.

### **7.38. Guarantee of Work.**

- 7.38.1 The Contractor must guarantee the Work against defective material and/or workmanship for a period of one (1) year from the date established by the Notice of Project Completion issued by the Owner to note acceptance of the completed Work. Upon discovery, repair work or replacement required in the opinion of the Project Manager or Owner, in consultation with Project Manager, must be done immediately by the Contractor at the Contractor's own expense.
- 7.38.2 If the Contractor fails to repair such defective material and/or workmanship, or to make replacements within five (5) days after written notice by the Owner, it is agreed that the Owner will make such repairs and replacements and the actual cost of the required labor and material will be chargeable to and payable by the Contractor.
- 7.38.3 Any omission on the part of the Project Manager to condemn defective work or material at the time of construction will not be deemed an acceptance, and the Contractor will be required to correct defective work or material at any time before acceptance of final payment and within one (1) year thereafter.

### **7.39. General.**

- 7.39.1 At least 48 hours in advance of the start of construction, the Contractor must advise all airport tenants and businesses in the immediate vicinity of the project of the type of Work that is to be undertaken and its approximate duration.
- 7.39.2 If this project requires the interruption of water/sewer service to a property, the Contractor must advise property owners/lessor of the interruption at least twenty-four (24) hours in advance of the start of construction.
- 7.39.3 Access to adjacent properties, cross streets or use of streets scheduled for improvement must be reasonably maintained and fully re-established at the end of each workday.



- 7.39.4 The Contractor must maintain dust abatement activities for the duration of the project, including weekends and holidays.
- a) The Contractor must maintain adequate moisture levels in the surface materials to eliminate blowing dust from these materials.
  - b) All haul trucks, whether involved in delivery or removal activities must be covered and/or tarped in order to negate the removal of material from trucks by winds, either natural or caused by the movement of the truck or, in accordance with the City of Yuma Ordinance No. 2638.
  - c) No separate payment will be made for these activities. The cost for same will be incorporated into the appropriate Bid Form line item cost.

## **Article 8: Obligations.**

### **8.1. Contractor.**

- 8.1.1 The Contractor must do all the Work, and furnish all labor, equipment, transportation, tools, and such materials as required for the completion of the Work, free from all claims, liens, and charges, in the manner and under the conditions specified in the Contract.
- 8.1.2 The Work and materials furnished must conform strictly with the Project Manual and Contract Documents. The Contractor guarantees that all materials and equipment furnished under this contract will be new, unless otherwise specified, and that all Work is of good quality, free from defects and in conformance with the contract Project Manual. Non-conforming Work is considered defective. The use of the words "or equal" following the name of any manufacturer, vendor or proprietary product will mean that, in the opinion of the Owner, articles or materials which are offered as a substitute must be equal in quality and performance to the articles or materials specified. The Contractor must submit requests for substitution to the Owner, and will not proceed with the installation or use any proposed substitution without written permission from the Project Manager.
- 8.1.3 The Owner reserves the right to perform work related to this project and to use its own forces, and to award other contracts in connection with the project related to the Work.
- 8.1.4 The Contractor must not assign this contract as a whole or in any part without written consent of the Owner. Any assignment without such consent may, at the option of the Owner, terminate this agreement. No portion of this Contract will be assigned to a subcontractor without the written consent of the Owner.
- 8.1.5 The Contractor must designate a superintendent upon the award of the Contract and notify the Project Manager via notarized letter of the superintendent's name, address and telephone number. The superintendent will be in charge of the operations of the Contractor in the performance of the Work and is authorized to accept any notice, consent, order, direction, decision or other communication on behalf of the Contractor that may be given to the superintendent under the Contract. The Contractor must, until the Work has been completed, keep a competent superintendent at the Work site during working hours. The Contractor must, upon the request of the Project Manager, remove any superintendent who, in the opinion of the Project Manager, is incompetent or has in the opinion of the Project Manager engaged in improper conduct, and will designate another superintendent who is acceptable to the Project Manager. The Contractor will

not substitute a superintendent without the written notice to and consent of the Project Manager. Failure to comply with this paragraph by the Contractor entitles the Project Manager to refuse to issue any certificate until the superintendent has returned to the Work site or another superintendent who is acceptable to the Project Manager has been substituted.

- 8.1.6 The Contractor must guard or otherwise protect the Work and its site, and protect the contract specifications, plans, drawings, information, material, plant and real property, whether or not they are supplied by the Owner to the Contractor, against loss or damage from any cause.
- 8.1.7 If the Contractor fails to comply with any decision or direction given by the Project Manager, the Project Manager may employ such methods as the Project Manager deems advisable to undertake that action which the Contractor failed to pursue. The Contractor must, on demand, pay the Owner an amount that is equal to the aggregate of all costs, expenses, damage incurred or sustained by the Owner by reason of the Contractor's failure to comply with any decision or direction of the Project Manager, including the cost of any methods employed by the Project Manager to complete the Work.
- 8.1.8 The Contractor must, within ten days of the date an unanticipated event beyond the control of the Owner and beyond the control of the Contractor that results in an expected expense, give the Project Manager and Owner written notice of intention to claim for that extra expense or that loss or damage. When the Contractor has given a notice, the Contractor must give the Project Manager and Owner a written claim detailing the extra expense or loss or damage claimed within 15 days of the date that a Notice of Project Completion is issued and not afterwards. A written claim must contain a sufficient description of the facts and circumstances of the occurrence that is the subject of the claim to enable the Project Manager to determine whether or not the claim is justified and the Contractor must supply such further and other information for that purpose as the Project Manager requires from time to time. If the Project Manager determines that a claim is justified and so recommends payment to Owner, the Owner may make an extra payment to the Contractor in an amount that is calculated by the Project Manager. If, in the opinion of the Project Manager, an occurrence results in a savings of expenditure by the Contractor in performing the contract, the amount set out in the Articles of Agreement shall be reduced by an amount that is equal to the saving. If the Contractor fails to give a notice and a claim within the times stipulated, no extra payment will be made to the Contractor in respect of the occurrence and Contractor will be deemed to have waived and forever relinquished any such claim.

## **8.2. Insurance.**

- 8.2.1 Without limiting any of its obligations or liabilities and at its own expense, the Contractor must purchase and maintain the stipulated minimum insurance with companies duly licensed to do business in the State of Arizona. All policies and forms must be satisfactory to the Owner. Use of alternative insurers requires Owner's prior approval.
- 8.2.2 The insurance policies, except Workers' Compensation, required by this Contract, must name the Owner, its Board of Directors and its employees, as Additional Insureds. Any insurance coverage carried by the Owner or its employees is excess coverage, and not contributory coverage to that provided by the Contractor.
- 8.2.3 Except for the Commercial General Liability insurance subject to paragraph 8.2.9, the Contractor must maintain all insurance in full force and effect until all required Work is satisfactorily completed and formally accepted by Owner. Failure to maintain the required insurance may, at the sole discretion of the Owner, constitute a material breach.

- 8.2.4 The policies may provide coverage which contains deductible or self-insured retentions. Such deductible or self-insured retentions are not applicable with respect to the coverage provided to the Owner under such policies. The Contractor is solely responsible for deductible or self-insured retention, and the Owner may require the Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 8.2.5 Prior to commencing Work, the Contractor must furnish Certificates of Insurance or formal endorsements, issued by Contractor's insurers to the Owner as evidence that policies providing the required coverage, conditions, and limits are in full force and effect. Such certificates must identify this Contract number or name and must provide for not less than 30 days advance Notice of Cancellation, Termination, or Material Alteration. Certificates must be sent directly to:
- Chief Financial Officer  
Yuma County Airport Authority, Inc.  
2191 E 32<sup>nd</sup> St, Suite 218  
Yuma, Arizona 85365
- 8.2.6 The Contractor must carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the Contractor's employees engaged in the performance of the Work, and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.
- 8.2.7 If any Work is subcontracted, the Contractor must require all Subcontractors to provide Workers' Compensation and Employer's Liability to at least the same extent as provided by the Contractor.
- 8.2.8 The Contractor must carry Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than \$1,000,000, each occurrence on all vehicles, whether owned or leased, used in performance of the Work. Such insurance must include coverage for loading and unloading hazardous materials and wastes.
- 8.2.9 The Contractor must carry Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 General Aggregate Limit. The policy must include coverage for bodily injury, products/completed operations and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this Contract. The policy must be primary and the coverage MUST NOT EXCLUDE Explosion, Collapse and Underground (X, C, U). In the event the General Liability insurance policy is written on a claims made basis, coverage must extend for two years past completion and acceptance of the Work as evidenced by annual Certificates of Insurance.
- 8.2.10 The Contractor must carry Umbrella/Excess Liability insurance with an unimpaired limit of not less than \$1,000,000 per occurrence combined limit Bodily Injury and Property Damage that "follows form" and applies in excess of the Commercial General Liability, Commercial/Business Automobile Liability and Employer's Liability, as required above.
- 8.2.11 To the extent applicable, the Contractor must purchase and maintain Builder's Risk Insurance in the amount of the initial Contract Amount, as well as subsequent modifications, for the entire Work at the site on a replacement cost basis. Such Insurance must be maintained until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required to be covered, whichever is earlier. This insurance must include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the work during the life of the Contract

and course of construction, and must continue until the work is completed and accepted by the Owner. For new construction projects, the Contractor assumes full responsibility for loss or damage to the Work being performed and to the buildings under construction. For renovation construction projects, the Contractor assumes responsibility for loss or damages to the Work being performed at least up to the full Contract Amount, unless otherwise required by the Contract Documents or Amendments.

8.2.12 Builders' Risk Insurance is on an all-risk policy form and must:

- a) Cover false work and temporary buildings;
- b) Insure against risks of direct physical loss or damage from external causes including debris removal and demolition occasioned by enforcement of any applicable legal requirements;
- c) Cover reasonable compensation for Engineer's service and expenses.
- d) Builders' Risk Insurance must provide coverage from the time any covered property becomes Contractor's responsibility, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction or installation site, and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered premises or any part are occupied. Builders' Risk Insurance must be primary and not contributory.

8.2.13 If the Owner requires testing of equipment or other similar operations, the Contractor is responsible for providing appropriate insurance as may be deemed necessary by the Owner.

### **8.3. Performance and Payment Bonds.**

8.3.1 The Contractor must maintain a Performance Bond, which is acceptable to the Owner and in the full amount of this contract and for the duration of the contract. Contractor's failure to maintain a Performance Bond is a default and the Owner may terminate this contract and pursue all other remedies.

8.3.2 The Contractor must maintain a Payment Bond, which is acceptable to the Owner and in the full amount of this contract and for the duration of the contract. Contractor's failure to maintain a Payment Bond is a default and the Owner may terminate this contract and pursue all other remedies.

### **8.4. Indemnification.**

8.4.1 Environmental Indemnification:

- a) Contractor agrees not to do, cause, fail to do, or allow any act to be done on the construction site ("Premises") which violates any State, Federal, or local environmental law, ordinance, rule or regulation and to, at all times, fully and completely comply with all applicable environmental laws and regulations. Contractor further agrees not to introduce any Hazardous Material in, on or adjacent to the Premises without obtaining the Owner's prior written approval, providing the Owner with thirty (30) days prior written notice of the exact amount, nature, and manner of intended use of such Hazardous Materials, and complying with all applicable federal, state and local laws, rules, regulations, ordinances, policies and authorities relating to the storage, use, disposal and clean-up of Hazardous Materials, including, but not limited to, the obtaining of all proper permits. As used herein, the term "Hazardous Material" shall mean any substance or material which has been determined by any state, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property, including all of those

materials and substances designated as hazardous or toxic by the city and county in which the Premises are located, the U.S. Environmental Protection Agency, the Consumer Product Safety Commission, the U.S. Food and Drug Administration, the Arizona Department of Environmental Quality, or any other governmental agency now and hereafter authorized to regulate materials and substances in the environment.

- b) Contractor agrees, at its sole cost and expense, to clean-up any contamination immediately, if Contractor's storage, use or disposal of any Hazardous Material in, on or adjacent to the Premises results in any contamination of the Premises, the soil, surface or ground water thereunder or in the air above and around the Premises requiring remediation under federal, state or local statutes, ordinances, regulations or policies, or at levels which are unacceptable to the Owner, in its sole and absolute discretion. To the fullest extent permitted by law, Contractor further agrees to indemnify, defend and hold the Owner and the County of Yuma, and their respective officers, directors, supervisors, employees, and agents, forever harmless from and against any claims, suits, causes of action, costs, damages, fines, and fees, including attorney's fees and costs, arising out of or in connection with:
- Any clean-up work, inquiry or enforcement proceeding relating to Hazardous Materials currently or hereafter used, stored or disposed of by Contractor or its agents, employees, contractors or invitees of any Hazardous Materials on or about the Premises;
  - The use, storage, disposal or release by Contractor or its agents, employees, subcontractors or invitees of any Hazardous Materials on or about the Premises; and/or
  - Any and all claims arising out of or attendant to any violation or alleged violation of any environmental law or regulation by Contractor, any other person or entity for whom Contractor is legally responsible, or any person or entity under the direct supervision and control of Contractor. Contractor acknowledges that the Owner, or its designee, shall have the right, at its election, in its own name or as Contractor's agent, to negotiate, defend, approve, and appeal, at Contractor's expense, any action taken or order issued with regard to Hazardous Material by any applicable governmental authority.
- c) Contractor covenants and agrees to comply with all applicable environmental laws and to provide the Owner, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other documentation from any source asserting or alleging a circumstance or condition which requires, or may require, a cleanup, removal, remedial action, or other response by or on the part of Contractor under environmental laws or which seek criminal or punitive penalties from Contractor for an alleged violation of environmental laws. Contractor further agrees to advise the Owner in writing as soon as Contractor becomes aware of any inquiry, test, investigation, or enforcement proceeding by, against or directed at Contractor or the Premises concerning Hazardous Material, or any condition or circumstances which may result in potential violation of any environmental laws. Contractor agrees, at its sole cost and expense, and at the request of the Owner, to permit an environmental audit solely for the benefit of the Owner, to be conducted by the Owner for purposes of determining Contractor's compliance with this Section. The right to require an environmental audit granted to the Owner herein shall not create a duty on the Owner's part to inspect the Premises, or liability of the Owner for Contractor's use, storage or disposal of Hazardous Materials, it being understood that Contractor shall be solely responsible for all liability in connection therewith. This provision shall not relieve Contractor from conduction of its own environmental audits or taking any other steps necessary to comply with environmental laws.

- d) If in the opinion of the Owner, there exists any uncorrected violation by Contractor of an environmental law or any condition which requires, or may require, a cleanup, removal, or other remedial action by Contractor under any environmental laws, and such cleanup, removal or other remedial action is not completed within the period of time specified in a written notice from the Owner to Contractor, the same shall, at the option of the Owner, constitute an event of material default of this Agreement. Additionally, the Owner reserves the right to take such corrective action as it deems necessary and bill the Contractor for all associated costs, as Contractor agrees to pay all such costs pursuant to Contractor's indemnification obligations hereunder.
- e) At the conclusion of Contractor's Work, or upon the Agreement's earlier termination, Contractor covenants to return the Premises free of Hazardous Materials and in a condition which complies with all governmental statutes, ordinances, regulations and policies, recommendations of consultants hired by the Owner, and such other reasonable requirements as may be imposed by the Owner.
- f) Contractor's obligations under this Section and all indemnification obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement.
- g) The Contractor must comply with all applicable federal, state, and local environmental laws, regulations and ordinances, and agrees to indemnify, defend, and hold harmless the Owner and County of Yuma, and their respective officers, directors, supervisors, employees, and agents, for any required remediation and from all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death to any person, damage to any property, or any environmental damage arising out of violations of such laws, regulations, and ordinances.

8.4.2 Contractor shall indemnify, defend, and hold the Owner and the County of Yuma and their respective officers, directors, supervisors, employees, and agents, forever harmless from and against any and all claims arising from, or in any way related to, Contractor's Work hereunder or activities in, on, around, under or upon the Premises; the conduct of Contractor's business or from any activity, work, or things done, permitted, or suffered by Contractor in or about the Premises; the death or injury of any person or damage to any property; any breach or default in the performance of any obligation on Contractor's part to be performed under the terms of this Agreement or covenant, warranty or representation; any negligence, act or omission of Contractor, or any of Contractor's agents, subcontractors, invitees, officers, directors, or employees; repair, replacement or warranty work performed for or by Contractor; and/or any other act or omission identified elsewhere in this Agreement or from any other claim or loss arising in any way whatsoever from the Agreement, which shall include, without limitation, full indemnification for and against all damages, losses, costs, attorney's fees, expenses, and liabilities incurred in defense of any such claim or any action or proceeding brought thereon. Contractor, as a material part of the consideration to the Owner, hereby assumes all risk of damage to property or injury to persons, in, upon, or about the Premises arising from any activity or cause referred to in this Section, and Contractor hereby waives all claims in respect thereof against the Owner or the County of Yuma. This indemnification shall not apply where the negligence or willful misconduct of the Owner solely causes such injury, death, or damage. The Owner shall give to Contractor reasonable notice of any such claims or actions. The Contractor shall give the Owner prompt written notice of any matter covered hereby, and shall forward to the Owner copies of every demand, notice, summons, or other process received in any demand, claim or legal proceeding covered hereby. Any payments

made by the Contractor pursuant to this indemnification shall be in addition to any other remedies available to the Owner.

8.4.3 The Contractor agrees to indemnify, defend, and hold harmless the Owner and the County of Yuma, and their respective officers, directors, supervisors, employees, and agents, against all liability or loss, and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with the performance of the work. The Contractor's indemnification responsibility extends to all subcontractors and anyone directly or indirectly employed or contracted by them, or anyone for whose acts they may be liable, regardless of whether a claim, damage, loss or related expense is caused in part by a party indemnified under this contract, including the Owner or County of Yuma.

8.4.4 The amount and type of insurance coverage does not limit the scope of any indemnity required hereunder.

## **8.5. Rights and Remedies.**

8.5.1 The Project Manager, or properly authorized agents, will:

- a) Manage the project on behalf of the Owner;
- b) Calculate and determine the quantity of the Work performed; inspect all Work for acceptance or rejection. The Project Manager has full authority to reject or condemn any Work which does not conform to the terms and conditions of the Contract Documents.

8.5.2 All suits for breach of this Contract, and any other judicial proceeding for the enforcement or interpretation of this Contract must be instituted and maintained in a court of competent jurisdiction in the County of Yuma, State of Arizona.

8.5.3 If either party fails to insist upon strict performance of any provisions of this Contract, to exercise any rights or remedies provided by this Contract, or to delay in the exercise of any rights or remedies, the parties are not released from any responsibilities or obligations imposed by law or by this Contract and do not waive the right to insist upon strict performance.

8.5.4 If a court of competent jurisdiction holds any term, part or provision of this agreement to be illegal or in conflict with any law of the State of Arizona, the validity of the remaining terms, parts, or provisions are not affected, and the rights and obligations of the parties are construed and enforced pursuant to the controlling provisions of Arizona law, if any, and as if the agreement did not contain the invalid part, term, or provision.

8.5.5 Claims, disputes or other matters in question between the parties relating to this Contract or breach thereof may be decided by arbitration in accordance with the Arizona Uniform Rules of Procedure for Arbitration if the parties mutually agree. Demand for arbitration must be filed in writing with the other party to this agreement.

8.5.6 To prevent disputes and litigation, the Project Manager will determine all questions in relation to the Work and the construction. In all cases, the Project Manager will decide questions that arise relative to the execution of the Work, and his estimates and decision are a condition precedent to the Contractor's right to receive any money or compensation for any work done or material furnished.

8.5.7 If an action or proceeding is brought for failure to observe any of the provisions of this contract, the prevailing party is entitled to recover, as part of such action or proceeding (including any

proceedings in bankruptcy or on appeal), all litigation and collection expenses, including but not limited to witness fees, court costs, and reasonable attorney fees.

- 8.5.8 If the Contractor neglects, fails or refuses to complete the Work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor agrees, as consideration for the awarding of this Contract, to pay to the Owner the amount identified as liquidated damages on the Bid Summary Sheet for each and every calendar day that the Contract is in default after the time stipulated in the Contract for completing the Work, not as a penalty, but as liquidated damages. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount may be retained from time to time by the Owner from current periodical estimates.
- 8.5.9 It is further agreed that time is of the essence for each and every portion of this Contract and for the specifications wherein as definite and certain length of times if fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any Work, the new time limit fixed by such extension shall be of the essence of this contract.
- 8.5.10 The Contractor will not be charged with liquidated damages when the Owner determines that the Contractor is without fault and the Contractor's reasons for a time extension are acceptable to the Owner. Further, the Contractor will not be charged with liquidated damages or any excess cost when the delay in completion of the Work is due:
- a) To any preference, priority or allocation order duly issued by the Owner;
  - b) To unforeseeable cause beyond the control and without the fault of negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
- 8.5.11 The Contractor must, within ten (10) days from the beginning of such delay, unless the Owner grants a further period of time prior to the date of final settlement of the Contract, notify the Owner, in writing, of the causes of the delay. The Project Manager will ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.
- 8.5.12 No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

## **8.6 Termination for Convenience or Cause**

- 8.6.1 **Termination for Convenience.** The Owner may terminate this contract in whole or in part at any time by providing fifteen (15) day 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:
- a. Contractor must immediately discontinue work as specified in the written notice.
  - b. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
  - c. Discontinue orders for materials and services except as directed by the written notice.



- d. 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.
- e. Complete performance of the work not terminated by the notice.
- f. 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:

- a. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b. 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;
- c. Reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d. 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.

**8.6.2 Default and termination of contract.** The Contractor shall be considered in default of his or her contract and such default will be considered as cause for the Owner to terminate the contract for any of the following reasons if the Contractor:

- a. Fails to begin the work under the contract within the time specified in the Notice to Proceed, or
- b. Fails to perform the work or fails to provide sufficient workers, equipment and/or materials to assure completion of work in accordance with the terms of the contract, or
- c. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- d. Discontinues the execution of the work, or
- e. Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- g. Allows any final judgment to stand against the Contractor unsatisfied for a period of 10 days, or
- h. Makes an assignment for the benefit of creditors, or
- i. For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Should the Project Manager consider the Contractor in default of the contract for any reason above, the Project Manager shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If the Contractor or surety, within a period of 10 days after such notice, does not proceed in accordance therewith, then the Owner will, upon written notification from the Project Manager of the facts of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the execution of the work out of the hands of the Contractor. The Owner may appropriate or use any or all materials and equipment that have been mobilized for use in the work and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Project Manager will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

## **8.7 Miscellaneous.**

- 8.7.1 **Successor and Assigns:** This Agreement is not assignable unless both parties mutually consent otherwise in writing. To the extent permitted by this Agreement, the requirements of this Agreement are binding upon the heirs, executors, administrators, successors, and assigns of both parties.
- 8.7.2 **Governing Law:** The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance.
- 8.7.3 **Waiver:** If either party fails to require the other party to perform any provision of this Agreement, that failure does not prevent the party from later enforcing that provision. Neither party is released from any responsibilities or obligations imposed by law or this Agreement if the other party fails to exercise a right or remedy.
- 8.7.4 **Severability:** If any terms, parts, or provisions of this Agreement are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.
- 8.7.5 **Integration:** This Agreement contains the entire agreement between the parties, and no oral or written statements, promises, or inducements made by either party or its agents not contained or specifically referred to in this Agreement is valid or binding. All modifications to this Agreement must be in writing, signed and endorsed by the parties.
- 8.7.6 **No Partnership:** Nothing in this Agreement constitutes a partnership or joint venture between the parties, and neither party is the principal or agent of the other.
- 8.7.7 **Venue:** The parties must institute and maintain any legal actions or other judicial proceedings arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona.
- 8.7.8 **Compliance with Law:** The Contractor must comply with all federal, state, and local laws and

ordinances applicable to its performance under this contract. The Contractor will comply with the Americans with Disabilities Act (ADA) and will indemnify the Owner for any costs, including but not limited to, damages, attorney's fees, and staff time in any action or proceeding brought alleging violation of the ADA. The Contractor will not discriminate against any person on the basis of race, religion, color, age, sex, or national origin in the performance of this Contract, and must comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964). In addition, the Contractor must include similar requirements of subcontractors in any contracts entered into for performance of the Contractor's obligations under this Contract. The Contractor agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Arizona state law. In addition, the Contractor must include similar requirements of all subcontractors in contracts entered for performance of the Contractor's obligations under this Contract.

- 8.7.9 **Time of the Essence:** Time is of the essence in this Contract. Unless otherwise specifically provided, any consent to delay in the Contractor's performance of its obligation is applicable only to the particular transaction to which it relates, and is not applicable to any other obligation or transaction.
- 8.7.10 **Conflict Of Interest:** This contract is subject to the Conflict of Interest provisions of the Arizona Revised Statutes §38-511, as amended.
- 8.7.11 **Notifications:** Written notice of a change of address of either party must be given in writing to the other party. Notice of change of address is deemed effective 5 days after mailing by the party changing address.
- 8.7.12 **Interpretation:** This Agreement, and its terms and conditions shall not be construed more strictly against the drafting party, and no such cannons of construction shall apply in its interpretation.
- 8.7.13 **Cross Default:** The occurrence of a default in any other agreement in which Contractor is party, and which relates to the Work hereunder in any way whatsoever, shall be a default of this Agreement, at the Owner's election. Contractor agrees to immediately notify the Owner of any such default, and provide any and all documents, correspondence, and/or the like as the Owner may request in connection with such default.
- 8.7.14 **Survival:** Unless expressly provided herein to the contrary, all provisions in which Contractor agrees to indemnify, defend and hold the Owner and/or the County of Yuma harmless shall survive the expiration or early termination of this Agreement.

## **Article 9: Special Conditions**

### **9.1. Owner Representative.**

The Owner will designate a staff person as access representative to coordinate all access, utility and systems interruptions, security, traffic control and any other conflicts resulting from the construction process.

### **9.2. Security Badges.**

The Contractor will be responsible to provide and maintain security-badged personnel in all areas of work. The Owner will provide security-training classes when requested one week in advance by the contractor.

### **9.3. Responsibility for Fees.**

9.3.1 The Contractor is responsible for procuring all permits and licenses, and giving any notices necessary and incident in performing the Work and paying any sales tax.

9.3.2 The Contractor is responsible for paying City of Yuma Impact and Development Fees, if any, and paying utility charges and fees.

### **9.4. Aircraft Taxiways and Aprons**

The Contractor will be responsible for the complete repair of any damage caused to aircraft taxiways, aircraft parking aprons or roadways caused by the contractor, his subcontractors, vendors or agents of any kind of the Contractor.

## **Article 10: Supplemental Conditions**

Construction Projects at Part 139 Airports, certified for commercial airline traffic must be developed in accordance with the policies, standards, and specifications approved by the Secretary, Department of Transportation. The standards contained in these supplemental conditions relate to materials and methods used in the construction of airports.

These supplemental conditions are part of FAA Advisory Circular AC 150/5370-10H Standards for Specifying Construction of Airports issued on December 21, 2018. They are the FAA's General Provisions and include the following Sections:

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

**Where there is a conflict between Articles 1 thru 9 of the Construction Contract and Article 10, the most stringent provision shall apply.**

The FAA's Office of Airport Safety and Standards makes updated standards available to the public through the Internet. These standards were downloaded from the following website:

[https://www.faa.gov/airports/resources/advisory\\_circulars/index.cfm/go/document.current/documentNumber/150\\_5370-10](https://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentNumber/150_5370-10)

## Part 1 – General Contract Provisions

### Section 10 Definition of Terms

When the following terms are used in these specifications, in the contract, or in any documents or other instruments pertaining to construction where these specifications govern, the intent and meaning shall be defined as follows:

<b>Paragraph Number</b>	<b>Term</b>	<b>Definition</b>
10-01	<b>AASHTO</b>	The American Association of State Highway and Transportation Officials.
10-02	<b>Access Road</b>	The right-of-way, the roadway and all improvements constructed thereon connecting the airport to a public roadway.
10-03	<b>Advertisement</b>	A public announcement, as required by local law, inviting bids for work to be performed and materials to be furnished.
10-04	<b>Airport</b>	Airport means an area of land or water which is used or intended to be used for the landing and takeoff of aircraft; an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; airport buildings and facilities located in any of these areas, and a heliport.
10-05	<b>Airport Improvement Program (AIP)</b>	A grant-in-aid program, administered by the Federal Aviation Administration (FAA).
10-06	<b>Air Operations Area (AOA)</b>	The term air operations area (AOA) shall mean any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron.
10-07	<b>Apron</b>	Area where aircraft are parked, unloaded or loaded, fueled and/or serviced.
10-08	<b>ASTM International (ASTM)</b>	Formerly known as the American Society for Testing and Materials (ASTM).
10-09	<b>Award</b>	The Owner's notice to the successful bidder of the acceptance of the submitted bid.
10-10	<b>Bidder</b>	Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a proposal for the work contemplated.
10-11	<b>Building Area</b>	An area on the airport to be used, considered, or intended to be used for airport buildings or other

<b>Paragraph Number</b>	<b>Term</b>	<b>Definition</b>
		airport facilities or rights-of-way together with all airport buildings and facilities located thereon.
<b>10-12</b>	<b>Calendar Day</b>	Every day shown on the calendar.
<b>10-13</b>	<b>Certificate of Analysis (COA)</b>	The COA is the manufacturer's Certificate of Compliance (COC) including all applicable test results required by the specifications.
<b>10-14</b>	<b>Certificate of Compliance (COC)</b>	The manufacturer's certification stating that materials or assemblies furnished fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer's authorized representative.
<b>10-15</b>	<b>Change Order</b>	A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for work within the scope of the contract and necessary to complete the project.
<b>10-16</b>	<b>Contract</b>	A written agreement between the Owner and the Contractor that establishes the obligations of the parties including but not limited to performance of work, furnishing of labor, equipment and materials and the basis of payment. The awarded contract includes but may not be limited to: Advertisement, Contract form, Proposal, Performance bond, payment bond, General provisions, certifications and representations, Technical Specifications, Plans, Supplemental Provisions, standards incorporated by reference and issued addenda.
<b>10-17</b>	<b>Contract Item (Pay Item)</b>	A specific unit of work for which a price is provided in the contract.
<b>10-18</b>	<b>Contract Time</b>	The number of calendar days or working days, stated in the proposal, allowed for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.
<b>10-19</b>	<b>Contractor</b>	The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the work contracted and for the payment of all legal debts pertaining to the work who acts directly or through lawful agents or employees to complete the contract work.
<b>10-20</b>	<b>Contractors Quality Control (QC) Facilities</b>	The Contractor's QC facilities in accordance with the Contractor Quality Control Program (CQCP).

<b>Paragraph Number</b>	<b>Term</b>	<b>Definition</b>
<b>10-21</b>	<b>Contractor Quality Control Program (CQCP)</b>	Details the methods and procedures that will be taken to assure that all materials and completed construction required by the contract conform to contract plans, technical specifications and other requirements, whether manufactured by the Contractor, or procured from subcontractors or vendors.
<b>10-22</b>	<b>Control Strip</b>	A demonstration by the Contractor that the materials, equipment, and construction processes results in a product meeting the requirements of the specification.
<b>10-23</b>	<b>Construction Safety and Phasing Plan (CSPP)</b>	The overall plan for safety and phasing of a construction project developed by the airport operator, or developed by the airport operator's consultant and approved by the airport operator. It is included in the invitation for bids and becomes part of the project specifications.
<b>10-24</b>	<b>Drainage System</b>	The system of pipes, ditches, and structures by which surface or subsurface waters are collected and conducted from the airport area.
<b>10-25</b>	<b>Engineer</b>	The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for engineering, inspection, and/or observation of the contract work and acting directly or through an authorized representative.
<b>10-26</b>	<b>Equipment</b>	All machinery, together with the necessary supplies for upkeep and maintenance; and all tools and apparatus necessary for the proper construction and acceptable completion of the work.
<b>10-27</b>	<b>Extra Work</b>	An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Owner's Engineer or Resident Project Representative (RPR) to be necessary to complete the work within the intended scope of the contract as previously modified.
<b>10-28</b>	<b>FAA</b>	The Federal Aviation Administration. When used to designate a person, FAA shall mean the Administrator or their duly authorized representative.
<b>10-29</b>	<b>Federal Specifications</b>	The federal specifications and standards, commercial item descriptions, and supplements, amendments, and indices prepared and issued by the General Services Administration.

Paragraph Number	Term	Definition
10-30	<b>Force Account</b>	<p><b>a.</b> Contract Force Account - A method of payment that addresses extra work performed by the Contractor on a time and material basis.</p> <p><b>b.</b> Owner Force Account - Work performed for the project by the Owner's employees.</p>
10-31	<b>Intention of Terms</b>	<p>Whenever, in these specifications or on the plans, the words “directed,” “required,” “permitted,” “ordered,” “designated,” “prescribed,” or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Engineer and/or Resident Project Representative (RPR) is intended; and similarly, the words “approved,” “acceptable,” “satisfactory,” or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Engineer and/or RPR, subject in each case to the final determination of the Owner.</p> <p>Any reference to a specific requirement of a numbered paragraph of the contract specifications or a cited standard shall be interpreted to include all general requirements of the entire section, specification item, or cited standard that may be pertinent to such specific reference.</p>
10-32	<b>Lighting</b>	<p>A system of fixtures providing or controlling the light sources used on or near the airport or within the airport buildings. The field lighting includes all luminous signals, markers, floodlights, and illuminating devices used on or near the airport or to aid in the operation of aircraft landing at, taking off from, or taxiing on the airport surface.</p>
10-33	<b>Major and Minor Contract Items</b>	<p>A major contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 20% of the total amount of the award contract. All other items shall be considered minor contract items.</p>
10-34	<b>Materials</b>	<p>Any substance specified for use in the construction of the contract work.</p>
10-35	<b>Modification of Standards (MOS)</b>	<p>Any deviation from standard specifications applicable to material and construction methods in accordance with FAA Order 5300.1.</p>
10-36	<b>Notice to Proceed (NTP)</b>	<p>A written notice to the Contractor to begin the actual contract work on a previously agreed to date. If</p>



Paragraph Number	Term	Definition
		applicable, the Notice to Proceed shall state the date on which the contract time begins.
10-37	<b>Owner</b>	The term “Owner” shall mean the party of the first part or the contracting agency signatory to the contract. Where the term “Owner” is capitalized in this document, it shall mean airport Sponsor only. The Owner for this project is the <b>Yuma County Airport Authority</b> .
10-38	Passenger Facility Charge (PFC)	Per 14 Code of Federal Regulations (CFR) Part 158 and 49 United States Code (USC) § 40117, a PFC is a charge imposed by a public agency on passengers enplaned at a commercial service airport it controls.
10-39	<b>Pavement Structure</b>	The combined surface course, base course(s), and subbase course(s), if any, considered as a single unit.
10-40	<b>Payment bond</b>	The approved form of security furnished by the Contractor and their own surety as a guaranty that the Contractor will pay in full all bills and accounts for materials and labor used in the construction of the work.
10-41	<b>Performance bond</b>	The approved form of security furnished by the Contractor and their own surety as a guaranty that the Contractor will complete the work in accordance with the terms of the contract.
10-42	<b>Plans</b>	The official drawings or exact reproductions which show the location, character, dimensions and details of the airport and the work to be done and which are to be considered as a part of the contract, supplementary to the specifications. Plans may also be referred to as 'contract drawings.'
10-43	<b>Project</b>	The agreed scope of work for accomplishing specific airport development with respect to a particular airport.
10-44	<b>Proposal</b>	The written offer of the bidder (when submitted on the approved proposal form) to perform the contemplated work and furnish the necessary materials in accordance with the provisions of the plans and specifications.
10-45	<b>Proposal guaranty</b>	The security furnished with a proposal to guarantee that the bidder will enter into a contract if their own proposal is accepted by the Owner.
10-46	<b>Quality Assurance (QA)</b>	Owner’s responsibility to assure that construction work completed complies with specifications for payment.

<b>Paragraph Number</b>	<b>Term</b>	<b>Definition</b>
<b>10-47</b>	<b>Quality Control (QC)</b>	Contractor's responsibility to control material(s) and construction processes to complete construction in accordance with project specifications.
<b>10-48</b>	<b>Quality Assurance (QA) Inspector</b>	An authorized representative of the Engineer and/or Resident Project Representative (RPR) assigned to make all necessary inspections, observations, tests, and/or observation of tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.
<b>10-49</b>	<b>Quality Assurance (QA) Laboratory</b>	The official quality assurance testing laboratories of the Owner or such other laboratories as may be designated by the Engineer or RPR. May also be referred to as Engineer's, Owner's, or QA Laboratory.
<b>10-50</b>	<b>Resident Project Representative (RPR)</b>	The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for all necessary inspections, observations, tests, and/or observations of tests of the contract work performed or being performed, or of the materials furnished or being furnished by the Contractor, and acting directly or through an authorized representative.
<b>10-51</b>	<b>Runway</b>	The area on the airport prepared for the landing and takeoff of aircraft.
<b>10-52</b>	<b>Runway Safety Area (RSA)</b>	A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to aircraft. See the construction safety and phasing plan (CSPP) for limits of the RSA.
<b>10-53</b>	<b>Safety Plan Compliance Document (SPCD)</b>	Details how the Contractor will comply with the CSPP.
<b>10-54</b>	<b>Specifications</b>	A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if included in the contract physically.
<b>10-55</b>	<b>Sponsor</b>	A Sponsor is defined in 49 USC § 47102(24) as a public agency that submits to the FAA for an AIP grant; or a private Owner of a public-use airport that submits to the FAA an application for an AIP grant for the airport.
<b>10-56</b>	<b>Structures</b>	Airport facilities such as bridges; culverts; catch basins, inlets, retaining walls, cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures

<b>Paragraph Number</b>	<b>Term</b>	<b>Definition</b>
		and bases; transformers; navigational aids; buildings; vaults; and, other manmade features of the airport that may be encountered in the work and not otherwise classified herein.
<b>10-57</b>	<b>Subgrade</b>	The soil that forms the pavement foundation.
<b>10-58</b>	<b>Superintendent</b>	The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the RPR, and who shall supervise and direct the construction.
<b>10-59</b>	<b>Supplemental Agreement</b>	A written agreement between the Contractor and the Owner that establishes the basis of payment and contract time adjustment, if any, for the work affected by the supplemental agreement. A supplemental agreement is required if: (1) in scope work would increase or decrease the total amount of the awarded contract by more than 25%; (2) in scope work would increase or decrease the total of any major contract item by more than 25%; (3) work that is not within the scope of the originally awarded contract; or (4) adding or deleting of a major contract item.
<b>10-60</b>	<b>Surety</b>	The corporation, partnership, or individual, other than the Contractor, executing payment or performance bonds that are furnished to the Owner by the Contractor.
<b>10-61</b>	<b>Taxilane</b>	A taxiway designed for low speed movement of aircraft between aircraft parking areas and terminal areas.
<b>10-62</b>	<b>Taxiway</b>	The portion of the air operations area of an airport that has been designated by competent airport authority for movement of aircraft to and from the airport's runways, aircraft parking areas, and terminal areas.
<b>10-63</b>	<b>Taxiway/Taxilane Safety Area (TSA)</b>	A defined surface alongside the taxiway prepared or suitable for reducing the risk of damage to an aircraft. See the construction safety and phasing plan (CSPP) for limits of the TSA.
<b>10-64</b>	<b>Work</b>	The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Contractor's performance of all duties and obligations imposed by the contract, plans, and specifications.
<b>10-65</b>	<b>Working day</b>	A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least six (6) hours toward

Paragraph Number	Term	Definition
		completion of the contract. When work is suspended for causes beyond the Contractor's control, it will not be counted as a working day. Saturdays, Sundays and holidays on which the Contractor's forces engage in regular work will be considered as working days.
<b>10-66</b>	<b>Owner Defined terms</b>	<b>None</b>

**END OF SECTION 10**

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## Section 20 Proposal Requirements and Conditions

**20-01 Advertisement (Notice to Bidders).** The Owner, or their authorized agent, shall publish the advertisement at such places and at such times as are required by local law or ordinances. Refer to Pages 3-4 of this document (Section) for bid advertisement posting information. The published advertisement shall state the time and place for submitting sealed proposals; provide a description of the proposed work; provide instructions to bidders about obtaining proposal forms, plans, and specifications; indicate the proposal guaranty required; and the Owner's right to reject any and all bids.

**20-02 Qualification of bidders.** Each bidder shall submit evidence of competency and evidence of financial responsibility to perform the work to the Owner at the time of bid opening. Evidence of competency, unless otherwise specified, shall consist of statements covering the bidder's past experience on similar work, and a list of equipment and a list of key personnel that would be available for the work.

Each bidder shall furnish the Owner satisfactory evidence of their financial responsibility. Evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the bidder's financial resources and liabilities as of the last calendar year or the bidder's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the bidder shall further certify whether their financial responsibility is approximately the same as stated or reported by the public accountant. If the bidder's financial responsibility has changed, the bidder shall qualify the public accountant's statement or report to reflect the bidder's true financial condition at the time such qualified statement or report is submitted to the Owner.

Unless otherwise specified, a bidder may submit evidence that they are prequalified with the State Highway Division and are on the current "bidder's list" of the state in which the proposed work is located. Evidence of State Highway Division prequalification may be submitted as evidence of financial responsibility in lieu of the certified statements or reports specified above. Each bidder shall submit "evidence of competency" and "evidence of financial responsibility" to the Owner at the time of the bid opening.

**20-03 Contents of proposal forms.** The Owner's proposal forms state the location and description of the proposed construction; the place, date, and time of opening of the proposals; and the estimated quantities of the various items of work to be performed and materials to be furnished for which unit bid prices are asked. The proposal form states the time in which the work must be completed, and the amount of the proposal guaranty that must accompany the proposal. The Owner will accept only those Proposals properly executed on physical forms or electronic forms provided by the Owner. Bidder actions that may cause the Owner to deem a proposal irregular are given in paragraph 20-09 *Irregular proposals*.

Mobilization is limited to 10 percent of the total project cost.

A prebid conference is required on this project to discuss as a minimum, the following items: material requirements; submittals; Quality Control/Quality Assurance requirements; the construction safety and phasing plan including airport access and staging areas; and unique airfield paving construction requirements.

A pre-bid conference will be held in the Airport Conference Room, Yuma County Airport Authority, Inc., 2191 E 32<sup>nd</sup> St, Suite 218, Yuma, Arizona 85365 at **10:00 A.M. local time on Tuesday April 30, 2024.**

**20-04 Issuance of proposal forms.** The Owner reserves the right to refuse to issue a proposal form to a prospective bidder if the bidder is in default for any of the following reasons:

- a. Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.
- b. Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force with the Owner at the time the Owner issues the proposal to a prospective bidder.
- c. Documented record of Contractor default under previous contracts with the Owner.
- d. Documented record of unsatisfactory work on previous contracts with the Owner.

**20-05 Interpretation of estimated proposal quantities.** An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the proposal. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of proposals and the award of the contract. The Owner does not expressly, or by implication, agree that the actual quantities involved will correspond exactly therewith; nor shall the bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the work. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications. It is understood that the quantities may be increased or decreased as provided in the Section 40, paragraph 40-02, Alteration of Work and Quantities, without in any way invalidating the unit bid prices.

**20-06 Examination of plans, specifications, and site.** The bidder is expected to carefully examine the site of the proposed work, the proposal, plans, specifications, and contract forms. Bidders shall satisfy themselves to the character, quality, and quantities of work to be performed, materials to be furnished, and to the requirements of the proposed contract. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and is satisfied to the conditions to be encountered in performing the work and the requirements of the proposed contract, plans, and specifications.

Boring logs or other records of subsurface investigations and tests are available for inspection of bidders. It is understood and agreed that such subsurface information, whether included in the plans, specifications, or otherwise made available to the bidder, was obtained and is intended for the Owner's design and estimating purposes only. Such information has been made available for the convenience of all bidders. It is further understood and agreed that each bidder is solely responsible for all assumptions, deductions, or conclusions which the bidder may make or obtain from their own examination of the boring logs and other records of subsurface investigations and tests that are furnished by the Owner.

**20-07 Preparation of proposal.** The bidder shall submit their proposal on the forms furnished by the Owner. All blank spaces in the proposal forms, unless explicitly stated otherwise, must be correctly filled in where indicated for each and every item for which a quantity is given. The bidder shall state the price (written in ink or typed) both in words and numerals which they propose for each pay item furnished in the proposal. In case of conflict between words and numerals, the words, unless obviously incorrect, shall govern.

The bidder shall correctly sign the proposal in ink. If the proposal is made by an individual, their name and post office address must be shown. If made by a partnership, the name and post office address of each member of the partnership must be shown. If made by a corporation, the person signing the proposal shall give the name of the state where the corporation was chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a

proposal as an agent shall file evidence of their authority to do so and that the signature is binding upon the firm or corporation.

**20-08 Responsive and responsible bidder.** A responsive bid conforms to all significant terms and conditions contained in the Owner's invitation for bid. It is the Owner's responsibility to decide if the exceptions taken by a bidder to the solicitation are material or not and the extent of deviation it is willing to accept.

A responsible bidder has the ability to perform successfully under the terms and conditions of a proposed procurement, as defined in 2 CFR § 200.318(h). This includes such matters as Contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

**20-09 Irregular proposals.** Proposals shall be considered irregular for the following reasons:

- a. If the proposal is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the proposal form is detached.
- b. If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind that make the proposal incomplete, indefinite, or otherwise ambiguous.
- c. If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized alternate pay items, for which the bidder is not required to furnish a unit price.
- d. If the proposal contains unit prices that are obviously unbalanced.
- e. If the proposal is not accompanied by the proposal guaranty specified by the Owner.
- f. If the applicable Disadvantaged Business Enterprise information is incomplete.

The Owner reserves the right to reject any irregular proposal and the right to waive technicalities if such waiver is in the best interest of the Owner and conforms to local laws and ordinances pertaining to the letting of construction contracts.

**20-10 Bid guarantee.** Each separate proposal shall be accompanied by a bid bond, certified check, or other specified acceptable collateral, in the amount specified in the proposal form. Such bond, check, or collateral, shall be made payable to the Owner.

**20-11 Delivery of proposal.** Each proposal submitted shall be placed in a sealed envelope plainly marked with the project number, location of airport, and name and business address of the bidder on the outside. When sent by mail, preferably registered, the sealed proposal, marked as indicated above, should be enclosed in an additional envelope. No proposal will be considered unless received at the place specified in the advertisement or as modified by Addendum before the time specified for opening all bids. Proposals received after the bid opening time shall be returned to the bidder unopened.

**20-12 Withdrawal or revision of proposals.** A bidder may withdraw or revise (by withdrawal of one proposal and submission of another) a proposal provided that the bidder's request for withdrawal is received by the Owner in writing or by email before the time specified for opening bids. Revised proposals must be received at the place specified in the advertisement before the time specified for opening all bids.

**20-13 Public opening of proposals.** Proposals shall be opened, and read, publicly at the time and place specified in the advertisement. Bidders, their authorized agents, and other interested persons are invited to attend. Proposals that have been withdrawn (by written or telegraphic request) or received after the time specified for opening bids shall be returned to the bidder unopened.

**20-14 Disqualification of bidders.** A bidder shall be considered disqualified for any of the following reasons:

**a.** Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.

**b.** Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the Owner until any such participating bidder has been reinstated by the Owner as a qualified bidder.

**c.** If the bidder is considered to be in “default” for any reason specified in paragraph 20-04, *Issuance of Proposal Forms*, of this section.

**20-15 Discrepancies and Omissions.** A Bidder who discovers discrepancies or omissions with the project bid documents shall immediately notify the Owner’s Engineer of the matter. A bidder that has doubt as to the true meaning of a project requirement may submit to the Owner’s Engineer a written request for interpretation no later than 5days prior to bid opening. Any interpretation of the project bid documents by the Owner’s Engineer will be by written addendum issued by the Owner. The Owner will not consider any instructions, clarifications or interpretations of the bidding documents in any manner other than written addendum.

**END OF SECTION 20**



## Section 30 Award and Execution of Contract

**30-01 Consideration of proposals.** After the proposals are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the proposal by the unit bid prices. If a bidder's proposal contains a discrepancy between unit bid prices written in words and unit bid prices written in numbers, the unit bid price written in words shall govern.

Until the award of a contract is made, the Owner reserves the right to reject a bidder's proposal for any of the following reasons:

a. If the proposal is irregular as specified in Section 20, paragraph 20-09, *Irregular Proposals*.

b. If the bidder is disqualified for any of the reasons specified Section 20, paragraph 20-14, *Disqualification of Bidders*.

In addition, until the award of a contract is made, the Owner reserves the right to reject any or all proposals, waive technicalities, if such waiver is in the best interest of the Owner and is in conformance with applicable state and local laws or regulations pertaining to the letting of construction contracts; advertise for new proposals; or proceed with the work otherwise. All such actions shall promote the Owner's best interests.

**30-02 Award of contract.** The award of a contract, if it is to be awarded, shall be made within 30 calendar days of the date specified for publicly opening proposals, unless otherwise specified herein.

If the Owner elects to proceed with an award of contract, the Owner will make award to the responsible bidder whose bid, conforming with all the material terms and conditions of the bid documents, is the lowest in price.

**30-03 Cancellation of award.** The Owner reserves the right to cancel the award without liability to the bidder, except return of proposal guaranty, at any time before a contract has been fully executed by all parties and is approved by the Owner in accordance with paragraph 30-07 *Approval of Contract*.

**30-04 Return of proposal guaranty.** All proposal guaranties, except those of the two lowest bidders, will be returned immediately after the Owner has made a comparison of bids as specified in the paragraph 30-01, *Consideration of Proposals*. Proposal guaranties of the two lowest bidders will be retained by the Owner until such time as an award is made, at which time, the unsuccessful bidder's proposal guaranty will be returned. The successful bidder's proposal guaranty will be returned as soon as the Owner receives the contract bonds as specified in paragraph 30-05, *Requirements of Contract Bonds*.

**30-05 Requirements of contract bonds.** At the time of the execution of the contract, the successful bidder shall furnish the Owner a surety bond or bonds that have been fully executed by the bidder and the surety guaranteeing the performance of the work and the payment of all legal debts that may be incurred by reason of the Contractor's performance of the work. The surety and the form of the bond or bonds shall be acceptable to the Owner. Unless otherwise specified in this subsection, the surety bond or bonds shall be in a sum equal to the full amount of the contract.

**30-06 Execution of contract.** The successful bidder shall sign (execute) the necessary agreements for entering into the contract and return the signed contract to the Owner, along with the fully executed surety bond or bonds specified in paragraph 30-05, *Requirements of Contract*

*Bonds*, of this section, within **15** calendar days from the date mailed or otherwise delivered to the successful bidder.

**30-07 Approval of contract.** Upon receipt of the contract and contract bond or bonds that have been executed by the successful bidder, the Owner shall complete the execution of the contract in accordance with local laws or ordinances, and return the fully executed contract to the Contractor. Delivery of the fully executed contract to the Contractor shall constitute the Owner's approval to be bound by the successful bidder's proposal and the terms of the contract.

**30-08 Failure to execute contract.** Failure of the successful bidder to execute the contract and furnish an acceptable surety bond or bonds within the period specified in paragraph 30-06, *Execution of Contract*, of this section shall be just cause for cancellation of the award and forfeiture of the proposal guaranty, not as a penalty, but as liquidated damages to the Owner.

**END OF SECTION 30**

## Section 40 Scope of Work

**40-01 Intent of contract.** The intent of the contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the plans, specifications, and terms of the contract.

**40-02 Alteration of work and quantities.** The Owner reserves the right to make such changes in quantities and work as may be necessary or desirable to complete, in a satisfactory manner, the original intended work. Unless otherwise specified in the Contract, the Owner's Engineer or RPR shall be and is hereby authorized to make, in writing, such in-scope alterations in the work and variation of quantities as may be necessary to complete the work, provided such action does not represent a significant change in the character of the work.

For purpose of this section, a significant change in character of work means: any change that is outside the current contract scope of work; any change (increase or decrease) in the total contract cost by more than 25%; or any change in the total cost of a major contract item by more than 25%.

Work alterations and quantity variances that do not meet the definition of significant change in character of work shall not invalidate the contract nor release the surety. Contractor agrees to accept payment for such work alterations and quantity variances in accordance with Section 90, paragraph 90-03, *Compensation for Altered Quantities*.

Should the value of altered work or quantity variance meet the criteria for significant change in character of work, such altered work and quantity variance shall be covered by a supplemental agreement. Supplemental agreements shall also require consent of the Contractor's surety and separate performance and payment bonds. If the Owner and the Contractor are unable to agree on a unit adjustment for any contract item that requires a supplemental agreement, the Owner reserves the right to terminate the contract with respect to the item and make other arrangements for its completion.

**40-03 Omitted items.** The Owner, the Owner's Engineer or the RPR may provide written notice to the Contractor to omit from the work any contract item that does not meet the definition of major contract item. Major contract items may be omitted by a supplemental agreement. Such omission of contract items shall not invalidate any other contract provision or requirement.

Should a contract item be omitted or otherwise ordered to be non-performed, the Contractor shall be paid for all work performed toward completion of such item prior to the date of the order to omit such item. Payment for work performed shall be in accordance with Section 90, paragraph 90-04, *Payment for Omitted Items*.

**40-04 Extra work.** Should acceptable completion of the contract require the Contractor to perform an item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, Owner may issue a Change Order to cover the necessary extra work. Change orders for extra work shall contain agreed unit prices for performing the change order work in accordance with the requirements specified in the order, and shall contain any adjustment to the contract time that, in the RPR's opinion, is necessary for completion of the extra work.

When determined by the RPR to be in the Owner's best interest, the RPR may order the Contractor to proceed with extra work as provided in Section 90, paragraph 90-05, *Payment for Extra Work*. Extra work that is necessary for acceptable completion of the project, but is not

within the general scope of the work covered by the original contract shall be covered by a supplemental agreement as defined in Section 10, paragraph 10-59, *Supplemental Agreement*. If extra work is essential to maintaining the project critical path, RPR may order the Contractor to commence the extra work under a Time and Material contract method. Once sufficient detail is available to establish the level of effort necessary for the extra work, the Owner shall initiate a change order or supplemental agreement to cover the extra work.

Any claim for payment of extra work that is not covered by written agreement (change order or supplemental agreement) shall be rejected by the Owner.

**40-05 Maintenance of traffic.** It is the explicit intention of the contract that the safety of aircraft, as well as the Contractor's equipment and personnel, is the most important consideration. The Contractor shall maintain traffic in the manner detailed in the Construction Safety and Phasing Plan (CSPP).

**a.** It is understood and agreed that the Contractor shall provide for the free and unobstructed movement of aircraft in the air operations areas (AOAs) of the airport with respect to their own operations and the operations of all subcontractors as specified in Section 80, paragraph 80-04, *Limitation of Operations*. It is further understood and agreed that the Contractor shall provide for the uninterrupted operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and upon the airport as specified in Section 70, paragraph 70-15, *Contractor's Responsibility for Utility Service and Facilities of Others*.

**b.** With respect to their own operations and the operations of all subcontractors, the Contractor shall provide marking, lighting, and other acceptable means of identifying personnel, equipment, vehicles, storage areas, and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the airport in accordance with the construction safety and phasing plan (CSPP) and the safety plan compliance document (SPCD).

**c.** When the contract requires the maintenance of an existing road, street, or highway during the Contractor's performance of work that is otherwise provided for in the contract, plans, and specifications, the Contractor shall keep the road, street, or highway open to all traffic and shall provide maintenance as may be required to accommodate traffic. The Contractor, at their expense, shall be responsible for the repair to equal or better than preconstruction conditions of any damage caused by the Contractor's equipment and personnel. The Contractor shall furnish, erect, and maintain barricades, warning signs, flag person, and other traffic control devices in reasonable conformity with the Manual on Uniform Traffic Control Devices (MUTCD) (<http://mutcd.fhwa.dot.gov/>), unless otherwise specified. The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways.

**40-06 Removal of existing structures.** All existing structures encountered within the established lines, grades, or grading sections shall be removed by the Contractor, unless such existing structures are otherwise specified to be relocated, adjusted up or down, salvaged, abandoned in place, reused in the work or to remain in place. The cost of removing such existing structures shall not be measured or paid for directly, but shall be included in the various contract items. Should the Contractor encounter an existing structure (above or below ground) in the work for which the disposition is not indicated on the plans, the Resident Project Representative (RPR) shall be notified prior to disturbing such structure. The disposition of existing structures so

encountered shall be immediately determined by the RPR in accordance with the provisions of the contract.

Except as provided in Section 40, paragraph 40-07, *Rights in and Use of Materials Found in the Work*, it is intended that all existing materials or structures that may be encountered (within the lines, grades, or grading sections established for completion of the work) shall be used in the work as otherwise provided for in the contract and shall remain the property of the Owner when so used in the work.

**40-07 Rights in and use of materials found in the work.** Should the Contractor encounter any material such as (but not restricted to) sand, stone, gravel, slag, or concrete slabs within the established lines, grades, or grading sections, the use of which is intended by the terms of the contract to be embankment, the Contractor may at their own option either:

- a. Use such material in another contract item, providing such use is approved by the RPR and is in conformance with the contract specifications applicable to such use; or,
- b. Remove such material from the site, upon written approval of the RPR; or
- c. Use such material for the Contractor's own temporary construction on site; or,
- d. Use such material as intended by the terms of the contract.

Should the Contractor wish to exercise option a., b., or c., the Contractor shall request the RPR's approval in advance of such use.

Should the RPR approve the Contractor's request to exercise option a., b., or c., the Contractor shall be paid for the excavation or removal of such material at the applicable contract price. The Contractor shall replace, at their expense, such removed or excavated material with an agreed equal volume of material that is acceptable for use in constructing embankment, backfills, or otherwise to the extent that such replacement material is needed to complete the contract work. The Contractor shall not be charged for use of such material used in the work or removed from the site.

Should the RPR approve the Contractor's exercise of option a., the Contractor shall be paid, at the applicable contract price, for furnishing and installing such material in accordance with requirements of the contract item in which the material is used.

It is understood and agreed that the Contractor shall make no claim for delays by reason of their own exercise of option a., b., or c.

The Contractor shall not excavate, remove, or otherwise disturb any material, structure, or part of a structure which is located outside the lines, grades, or grading sections established for the work, except where such excavation or removal is provided for in the contract, plans, or specifications.

**40-08 Final cleanup.** Upon completion of the work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees. The Contractor shall cut all brush and woods within the limits indicated and shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of the property Owner.

**END OF SECTION 40**

## Section 50 Control of Work

**50-01 Authority of the Resident Project Representative (RPR).** The RPR has final authority regarding the interpretation of project specification requirements. The RPR shall determine acceptability of the quality of materials furnished, method of performance of work performed, and the manner and rate of performance of the work. The RPR does not have the authority to accept work that does not conform to specification requirements.

**50-02 Conformity with plans and specifications.** All work and all materials furnished shall be in reasonably close conformity with the lines, grades, grading sections, cross-sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the contract, plans, or specifications.

If the RPR finds the materials furnished, work performed, or the finished product not within reasonably close conformity with the plans and specifications, but that the portion of the work affected will, in their opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, the RPR will advise the Owner of their determination that the affected work be accepted and remain in place. The RPR will document the determination and recommend to the Owner a basis of acceptance that will provide for an adjustment in the contract price for the affected portion of the work. Changes in the contract price must be covered by contract change order or supplemental agreement as applicable.

If the RPR finds the materials furnished, work performed, or the finished product are not in reasonably close conformity with the plans and specifications and have resulted in an unacceptable finished product, the affected work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the RPR's written orders.

The term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the work in accordance with the contract, plans, and specifications. The term shall not be construed as waiving the RPR's responsibility to insist on strict compliance with the requirements of the contract, plans, and specifications during the Contractor's execution of the work, when, in the RPR's opinion, such compliance is essential to provide an acceptable finished portion of the work.

The term "reasonably close conformity" is also intended to provide the RPR with the authority, after consultation with the Sponsor and FAA, to use sound engineering judgment in their determinations to accept work that is not in strict conformity, but will provide a finished product equal to or better than that required by the requirements of the contract, plans and specifications. The RPR will not be responsible for the Contractor's means, methods, techniques, sequences, or procedures of construction or the safety precautions incident thereto.

**50-03 Coordination of contract, plans, and specifications.** The contract, plans, specifications, and all referenced standards cited are essential parts of the contract requirements. If electronic files are provided and used on the project and there is a conflict between the electronic files and hard copy plans, the hard copy plans shall govern. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; contract technical specifications shall govern over contract general provisions, plans, cited standards for materials or testing, and cited advisory circulars (ACs); contract general provisions shall govern over plans, cited standards for materials or testing, and cited ACs; plans shall govern over cited standards for materials or testing and cited ACs. If any

paragraphs contained in the Special Provisions conflict with General Provisions or Technical Specifications, the Special Provisions shall govern.

From time to time, discrepancies within cited testing standards occur due to the timing of the change, edits, and/or replacement of the standards. If the Contractor discovers any apparent discrepancy within standard test methods, the Contractor shall immediately ask the RPR for an interpretation and decision, and such decision shall be final.

The Contractor shall not take advantage of any apparent error or omission on the plans or specifications. In the event the Contractor discovers any apparent error or discrepancy, Contractor shall immediately notify the Owner or the designated representative in writing requesting their written interpretation and decision.

#### **50-04 List of Special Provisions.**

Technical Provisions

General Provisions

Construction Plans

Cited Advisory Circulars.

**50-05 Cooperation of Contractor.** The Contractor shall be supplied with five hard copies or an electronic PDF of the plans and specifications. The Contractor shall have available on the construction site at all times one hardcopy each of the plans and specifications. Additional hard copies of plans and specifications may be obtained by the Contractor for the cost of reproduction. The Contractor shall give constant attention to the work to facilitate the progress thereof, and shall cooperate with the RPR and their inspectors and with other Contractors in every way possible. The Contractor shall have a competent superintendent on the work at all times who is fully authorized as their agent on the work. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the RPR or their authorized representative.

**50-06 Cooperation between Contractors.** The Owner reserves the right to contract for and perform other or additional work on or near the work covered by this contract.

When separate contracts are let within the limits of any one project, each Contractor shall conduct the work not to interfere with or hinder the progress of completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with their own contract and shall protect and hold harmless the Owner from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced because of the presence and operations of other Contractors working within the limits of the same project. The Contractor shall arrange their work and shall place and dispose of the materials being used to not interfere with the operations of the other Contractors within the limits of the same project. The Contractor shall join their work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

**50-07 Construction layout and stakes.** The Engineer/RPR shall establish necessary horizontal and vertical control. The establishment of Survey Control and/or reestablishment of survey control shall be by a State Licensed Land Surveyor. Contractor is responsible for preserving integrity of horizontal and vertical controls established by Engineer/RPR. In case of negligence on the part of the Contractor or their employees, resulting in the destruction of any horizontal

and vertical control, the resulting costs will be deducted as a liquidated damage against the Contractor.

Prior to the start of construction, the Contractor will check all control points for horizontal and vertical accuracy and certify in writing to the RPR that the Contractor concurs with survey control established for the project. All lines, grades and measurements from control points necessary for the proper execution and control of the work on this project will be provided to the RPR. The Contractor is responsible to establish all layout required for the construction of the project.

Copies of survey notes will be provided to the RPR for each area of construction and for each placement of material as specified to allow the RPR to make periodic checks for conformance with plan grades, alignments and grade tolerances required by the applicable material specifications. Surveys will be provided to the RPR prior to commencing work items that cover or disturb the survey staking. Survey(s) and notes shall be provided in the following format(s): PDF and AutoCAD.

Laser, GPS, String line, or other automatic control shall be checked with temporary control as necessary. In the case of error, on the part of the Contractor, their surveyor, employees or subcontractors, resulting in established grades, alignment or grade tolerances that do not concur with those specified or shown on the plans, the Contractor is solely responsible for correction, removal, replacement and all associated costs at no additional cost to the Owner.

No direct payment will be made, unless otherwise specified in contract documents, for this labor, materials, or other expenses. The cost shall be included in the price of the bid for the various items of the Contract.

**50-08 Authority and duties of Quality Assurance (QA) inspectors.** QA inspectors shall be authorized to inspect all work done and all material furnished. Such QA inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. QA inspectors are not authorized to revoke, alter, or waive any provision of the contract. QA inspectors are not authorized to issue instructions contrary to the plans and specifications or to act as foreman for the Contractor.

QA Inspectors are authorized to notify the Contractor or their representatives of any failure of the work or materials to conform to the requirements of the contract, plans, or specifications and to reject such nonconforming materials in question until such issues can be referred to the RPR for a decision.

**50-09 Inspection of the work.** All materials and each part or detail of the work shall be subject to inspection. The RPR shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the RPR requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.



Provide advance written notice to the RPR of work the Contractor plans to perform each week and each day. Any work done or materials used without written notice and allowing opportunity for inspection by the RPR may be ordered removed and replaced at the Contractor's expense. Should the contract work include relocation, adjustment, or any other modification to existing facilities, not the property of the (contract) Owner, authorized representatives of the Owners of such facilities shall have the right to inspect such work. Such inspection shall in no sense make any facility owner a party to the contract, and shall in no way interfere with the rights of the parties to this contract.

**50-10 Removal of unacceptable and unauthorized work.** All work that does not conform to the requirements of the contract, plans, and specifications will be considered unacceptable, unless otherwise determined acceptable by the RPR as provided in paragraph 50-02, *Conformity with Plans and Specifications*.

Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner in accordance with the provisions of Section 70, paragraph 70-14, *Contractor's Responsibility for Work*.

No removal work made under provision of this paragraph shall be done without lines and grades having been established by the RPR. Work done contrary to the instructions of the RPR, work done beyond the lines shown on the plans or as established by the RPR, except as herein specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so done may be ordered removed or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply with any order of the RPR made under the provisions of this subsection, the RPR will have authority to cause unacceptable work to be remedied or removed and replaced; and unauthorized work to be removed and recover the resulting costs as a liquidated damage against the Contractor.

**50-11 Load restrictions.** The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the work. A special permit will not relieve the Contractor of liability for damage that may result from the moving of material or equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base, or structure before the expiration of the curing period. The Contractor, at their own expense, shall be responsible for the repair to equal or better than preconstruction conditions of any damage caused by the Contractor's equipment and personnel.

**50-12 Maintenance during construction.** The Contractor shall maintain the work during construction and until the work is accepted. Maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces so that the work is maintained in satisfactory condition at all times.

In the case of a contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various contract items, and the Contractor will not be paid an additional amount for such work.

**50-13 Failure to maintain the work.** Should the Contractor at any time fail to maintain the work as provided in paragraph 50-12, *Maintenance during Construction*, the RPR shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists.

Should the Contractor fail to respond to the RPR's notification, the Owner may suspend any work necessary for the Owner to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the Owner, shall be recovered as a liquidated damage against the Contractor.

**50-14 Partial acceptance.** If at any time during the execution of the project the Contractor substantially completes a usable unit or portion of the work, the occupancy of which will benefit the Owner, the Contractor may request the RPR to make final inspection of that unit. If the RPR finds upon inspection that the unit has been satisfactorily completed in compliance with the contract, the RPR may accept it as being complete, and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Owner shall not void or alter any provision of the contract.

**50-15 Final acceptance.** Upon due notice from the Contractor of presumptive completion of the entire project, the RPR and Owner will make an inspection. If all construction provided for and contemplated by the contract is found to be complete in accordance with the contract, plans, and specifications, such inspection shall constitute the final inspection. The RPR shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the RPR will notify the Contractor and the Contractor shall correct the unsatisfactory work. Upon correction of the work, another inspection will be made which shall constitute the final inspection, provided the work has been satisfactorily completed. In such event, the RPR will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

**50-16 Claims for adjustment and disputes.** If for any reason the Contractor deems that additional compensation is due for work or materials not clearly provided for in the contract, plans, or specifications or previously authorized as extra work, the Contractor shall notify the RPR in writing of their intention to claim such additional compensation before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given or the RPR is not afforded proper opportunity by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the RPR has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 10 calendar days, submit a written claim to the RPR who will present it to the Owner for consideration in accordance with local laws or ordinances. Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

## END OF SECTION 50

## Section 60 Control of Materials

**60-01 Source of supply and quality requirements.** The materials used in the work shall conform to the requirements of the contract, plans, and specifications. Unless otherwise specified, such materials that are manufactured or processed shall be new (as compared to used or reprocessed).

In order to expedite the inspection and testing of materials, the Contractor shall furnish documentation to the RPR as to the origin, composition, and manufacture of all materials to be used in the work. Documentation shall be furnished promptly after execution of the contract but, in all cases, prior to delivery of such materials.

At the RPR's option, materials may be approved at the source of supply before delivery. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the Contractor shall furnish materials from other sources.

The Contractor shall furnish airport lighting equipment that meets the requirements of the specifications; and is listed in AC 150/5345-53, *Airport Lighting Equipment Certification Program* and *Addendum*, that is in effect on the date of advertisement.

**60-02 Samples, tests, and cited specifications.** All materials used in the work shall be inspected, tested, and approved by the RPR before incorporation in the work unless otherwise designated. Any work in which untested materials are used without approval or written permission of the RPR shall be performed at the Contractor's risk. Materials found to be unacceptable and unauthorized will not be paid for and, if directed by the RPR, shall be removed at the Contractor's expense.

Unless otherwise designated, quality assurance tests will be made by and at the expense of the Owner in accordance with the cited standard methods of ASTM, American Association of State Highway and Transportation Officials (AASHTO), federal specifications, Commercial Item Descriptions, and all other cited methods, which are current on the date of advertisement for bids.

The testing organizations performing on-site quality assurance field tests shall have copies of all referenced standards on the construction site for use by all technicians and other personnel.

Unless otherwise designated, samples for quality assurance will be taken by a qualified representative of the RPR. All materials being used are subject to inspection, test, or rejection at any time prior to or during incorporation into the work. Copies of all tests will be furnished to the Contractor's representative at their request after review and approval of the RPR.

A copy of all Contractor QC test data shall be provided to the RPR daily, along with printed reports, in an approved format, on a weekly basis. After completion of the project, and prior to final payment, the Contractor shall submit a final report to the RPR showing all test data reports, plus an analysis of all results showing ranges, averages, and corrective action taken on all failing tests.

The Contractor shall employ a Quality Control (QC) testing organization to perform all Contractor required QC tests in accordance with Item C-100 Contractor Quality Control Program (CQCP). The Contractor shall submit to the Engineer resumes on all testing organizations and individual persons who will be performing the tests. The Engineer will determine if such persons are qualified. All the test data shall be reported to the Engineer after the results are known. A legible, handwritten copy of all test data shall be given to the Engineer daily, along with printed reports, in an approved format, on a weekly basis. After completion of the project, and prior to final payment, the Contractor shall submit a final report to the Engineer showing all test data reports, plus an analysis of all results showing ranges,

averages, and corrective action taken on all failing tests. Weekly Reports and the Final Report shall be submitted electronically in a PDF format.

**60-03 Certification of compliance/analysis (COC/COA).** The RPR may permit the use, prior to sampling and testing, of certain materials or assemblies when accompanied by manufacturer's COC stating that such materials or assemblies fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer. Each lot of such materials or assemblies delivered to the work must be accompanied by a certificate of compliance in which the lot is clearly identified. The COA is the manufacturer's COC and includes all applicable test results.

Materials or assemblies used on the basis of certificates of compliance may be sampled and tested at any time and if found not to be in conformity with contract requirements will be subject to rejection whether in place or not.

The form and distribution of certificates of compliance shall be as approved by the RPR.

When a material or assembly is specified by "brand name or equal" and the Contractor elects to furnish the specified "or equal," the Contractor shall be required to furnish the manufacturer's certificate of compliance for each lot of such material or assembly delivered to the work. Such certificate of compliance shall clearly identify each lot delivered and shall certify as to:

- a. Conformance to the specified performance, testing, quality or dimensional requirements; and,
- b. Suitability of the material or assembly for the use intended in the contract work.

The RPR shall be the sole judge as to whether the proposed "or equal" is suitable for use in the work.

The RPR reserves the right to refuse permission for use of materials or assemblies on the basis of certificates of compliance.

**60-04 Plant inspection.** The RPR or their authorized representative may inspect, at its source, any specified material or assembly to be used in the work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods or materials to be used in the work and to obtain samples required for acceptance of the material or assembly.

Should the RPR conduct plant inspections, the following conditions shall exist:

- a. The RPR shall have the cooperation and assistance of the Contractor and the producer with whom the Contractor has contracted for materials.

- b. The RPR shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of the materials being furnished.

- c. If required by the RPR, the Contractor shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Place office or working space in a convenient location with respect to the plant.

It is understood and agreed that the Owner shall have the right to retest any material that has been tested and approved at the source of supply after it has been delivered to the site. The RPR shall have the right to reject only material which, when retested, does not meet the requirements of the contract, plans, or specifications.

**60-05 Engineer/ Resident Project Representative (RPR) field office.**

The Contractor shall furnish for the duration of the project one building for the use of the field Engineers and inspectors, as a field office. This facility shall be

an approved weatherproof building meeting the current State Highway Specifications (for example, Class I Field Office or Type C Structure). This building shall be located conveniently near to the construction and shall be separate from any building used by the Contractor. The Contractor shall furnish wireless internet, facsimile (FAX) machine, photocopy machine, water, sanitary facilities, heat, air conditioning, and electricity. The Contractor and the Contractor's superintendent shall provide all reasonable facilities to enable to the Engineer to inspect the workmanship and materials used into the work.

**60-06 Storage of materials.** Materials shall be stored to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the RPR. Materials to be stored on airport property shall not create an obstruction to air navigation nor shall they interfere with the free and unobstructed movement of aircraft. Unless otherwise shown on the plans and/or CSPP, the storage of materials and the location of the Contractor's plant and parked equipment or vehicles shall be as directed by the RPR. Private property shall not be used for storage purposes without written permission of the Owner or lessee of such property. The Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the RPR a copy of the property Owner's permission.

All storage sites on private or airport property shall be restored to their original condition by the Contractor at their expense, except as otherwise agreed to (in writing) by the Owner or lessee of the property.

**60-07 Unacceptable materials.** Any material or assembly that does not conform to the requirements of the contract, plans, or specifications shall be considered unacceptable and shall be rejected. The Contractor shall remove any rejected material or assembly from the site of the work, unless otherwise instructed by the RPR.

Rejected material or assembly, the defects of which have been corrected by the Contractor, shall not be returned to the site of the work until such time as the RPR has approved its use in the work.

**60-08 Owner furnished materials.** The Contractor shall furnish all materials required to complete the work, except those specified, if any, to be furnished by the Owner. Owner-furnished materials shall be made available to the Contractor at the location specified.

All costs of handling, transportation from the specified location to the site of work, storage, and installing Owner-furnished materials shall be included in the unit price bid for the contract item in which such Owner-furnished material is used.

After any Owner-furnished material has been delivered to the location specified, the Contractor shall be responsible for any demurrage, damage, loss, or other deficiencies that may occur during the Contractor's handling, storage, or use of such Owner-furnished material. The Owner will deduct from any monies due or to become due the Contractor any cost incurred by the Owner in making good such loss due to the Contractor's handling, storage, or use of Owner-furnished materials.

## END OF SECTION 60

## Section 70 Legal Regulations and Responsibility to Public

**70-01 Laws to be observed.** The Contractor shall keep fully informed of all federal and state laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and all their officers, agents, or servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or the Contractor's employees.

**70-02 Permits, licenses, and taxes.** The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful execution of the work.

**70-03 Patented devices, materials, and processes.** If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the Patentee or Owner. The Contractor and the surety shall indemnify and hold harmless the Owner, any third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the execution or after the completion of the work.

**70-04 Restoration of surfaces disturbed by others.** The Owner reserves the right to authorize the construction, reconstruction, or maintenance of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA) facility, or a utility service of another government agency at any time during the progress of the work. To the extent that such construction, reconstruction, or maintenance has been coordinated with the Owner, such authorized work (by others) must be shown on the plans and is indicated as follows: NONE. Except as listed above, the Contractor shall not permit any individual, firm, or corporation to excavate or otherwise disturb such utility services or facilities located within the limits of the work without the written permission of the RPR.

Should the Owner of public or private utility service, FAA, or NOAA facility, or a utility service of another government agency be authorized to construct, reconstruct, or maintain such utility service or facility during the progress of the work, the Contractor shall cooperate with such Owners by arranging and performing the work in this contract to facilitate such construction, reconstruction or maintenance by others whether or not such work by others is listed above. When ordered as extra work by the RPR, the Contractor shall make all necessary repairs to the work which are due to such authorized work by others, unless otherwise provided for in the contract, plans, or specifications. It is understood and agreed that the Contractor shall not be entitled to make any claim for damages due to such authorized work by others or for any delay to the work resulting from such authorized work.

**70-05 Federal Participation.** The United States Government has agreed to reimburse the Owner for some portion of the contract costs. The contract work is subject to the inspection and approval of duly authorized representatives of the FAA Administrator. No requirement of this contract shall be construed as making the United States a party to the contract nor will any such requirement interfere, in any way, with the rights of either party to the contract.

**70-06 Sanitary, health, and safety provisions.** The Contractor's worksite and facilities shall comply with applicable federal, state, and local requirements for health, safety and sanitary provisions.

**70-07 Public convenience and safety.** The Contractor shall control their operations and those of their subcontractors and all suppliers, to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

The Contractor shall maintain the free and unobstructed movement of aircraft and vehicular traffic with respect to their own operations and those of their own subcontractors and all suppliers in accordance with Section 40, paragraph 40-05, *Maintenance of Traffic*, and shall limit such operations for the convenience and safety of the traveling public as specified in Section 80, paragraph 80-04, *Limitation of Operations*.

The Contractor shall remove or control debris and rubbish resulting from its work operations at frequent intervals, and upon the order of the RPR. If the RPR determines the existence of Contractor debris in the work site represents a hazard to airport operations and the Contractor is unable to respond in a prompt and reasonable manner, the RPR reserves the right to assign the task of debris removal to a third party and recover the resulting costs as a liquidated damage against the Contractor.

**70-08 Construction Safety and Phasing Plan (CSPP).** The Contractor shall complete the work in accordance with the approved Construction Safety and Phasing Plan (CSPP) developed in accordance with AC 150/5370-2, *Operational Safety on Airports During Construction*. The CSPP is included in the bid documents and a general layout is also present on general sheet G003 of the project plans.

**70-09 Use of explosives.** The use of explosives is not permitted on this project.

**70-10 Protection and restoration of property and landscape.** The Contractor shall be responsible for the preservation of all public and private property, and shall protect carefully from disturbance or damage all land monuments and property markers until the Engineer/RPR has witnessed or otherwise referenced their location and shall not move them until directed. The Contractor shall be responsible for all damage or injury to property of any character, during the execution of the work, resulting from any act, omission, neglect, or misconduct in manner or method of executing the work, or at any time due to defective work or materials, and said responsibility shall not be released until the project has been completed and accepted.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof by the Contractor, the Contractor shall restore, at their expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, or otherwise restoring as may be directed, or the Contractor shall make good such damage or injury in an acceptable manner.

**70-11 Responsibility for damage claims.** The Contractor shall indemnify and hold harmless the Engineer/RPR and the Owner and their officers, agents, and employees from all suits, actions, or claims, of any character, brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. Money due the

Contractor under and by virtue of their own contract considered necessary by the Owner for such purpose may be retained for the use of the Owner or, in case no money is due, their own surety may be held until such suits, actions, or claims for injuries or damages shall have been settled and suitable evidence to that effect furnished to the Owner, except that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that he or she is adequately protected by public liability and property damage insurance.

**70-12 Third party beneficiary clause.** It is specifically agreed between the parties executing the contract that it is not intended by any of the provisions of any part of the contract to create for the public or any member thereof, a third-party beneficiary or to authorize anyone not a party to the contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the contract.

**70-13 Opening sections of the work to traffic.** If it is necessary for the Contractor to complete portions of the contract work for the beneficial occupancy of the Owner prior to completion of the entire contract, such “phasing” of the work must be specified below and indicated on the approved Construction Safety and Phasing Plan (CSPP) and the project plans. When so specified, the Contractor shall complete such portions of the work on or before the date specified or as otherwise specified.

The Contractor shall make his or her own estimate of the difficulties involved in arranging the work to permit such beneficial occupancy by the Owner as described in the Project Manual.

Upon completion of any portion of work listed above, such portion shall be accepted by the Owner in accordance with Section 50, paragraph 50-14, *Partial Acceptance*.

No portion of the work may be opened by the Contractor until directed by the Owner in writing. Should it become necessary to open a portion of the work to traffic on a temporary or intermittent basis, such openings shall be made when, in the opinion of the RPR, such portion of the work is in an acceptable condition to support the intended traffic. Temporary or intermittent openings are considered to be inherent in the work and shall not constitute either acceptance of the portion of the work so opened or a waiver of any provision of the contract. Any damage to the portion of the work so opened that is not attributable to traffic which is permitted by the Owner shall be repaired by the Contractor at their expense.

The Contractor shall make their own estimate of the inherent difficulties involved in completing the work under the conditions herein described and shall not claim any added compensation by reason of delay or increased cost due to opening a portion of the contract work.

The Contractor must conform to safety standards contained AC 150/5370-2 and the approved CSPP.

Contractor shall refer to the plans, specifications, and the approved CSPP to identify barricade requirements, temporary and/or permanent markings, airfield lighting, guidance signs and other safety requirements prior to opening up sections of work to traffic.

**70-14 Contractor’s responsibility for work.** Until the RPR’s final written acceptance of the entire completed work, excepting only those portions of the work accepted in accordance with Section 50, paragraph 50-14, *Partial Acceptance*, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but



not restricted to acts of God such as earthquake, tidal wave, tornado, hurricane or other cataclysmic phenomenon of nature, or acts of the public enemy or of government authorities. If the work is suspended for any cause whatever, the Contractor shall be responsible for the work and shall take such precautions necessary to prevent damage to the work. The Contractor shall provide for normal drainage and shall erect necessary temporary structures, signs, or other facilities at their own expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established planting, seeding, and sodding furnished under the contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

**70-15 Contractor's responsibility for utility service and facilities of others.** As provided in paragraph 70-04, *Restoration of Surfaces Disturbed by Others*, the Contractor shall cooperate with the owner of any public or private utility service, FAA or NOAA, or a utility service of another government agency that may be authorized by the Owner to construct, reconstruct or maintain such utility services or facilities during the progress of the work. In addition, the Contractor shall control their operations to prevent the unscheduled interruption of such utility services and facilities.

To the extent that such public or private utility services, FAA, or NOAA facilities, or utility services of another governmental agency are known to exist within the limits of the contract work, the approximate locations have been indicated on the plans and/or in the contract documents.

It is understood and agreed that the Owner does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the plans or encountered in the work. Any inaccuracy or omission in such information shall not relieve the Contractor of the responsibility to protect such existing features from damage or unscheduled interruption of service.

It is further understood and agreed that the Contractor shall, upon execution of the contract, notify the Owners of all utility services or other facilities of their plan of operations. Such notification shall be in writing addressed to "The Person to Contact" as provided in this paragraph and paragraph 70-04, *Restoration of Surfaces Disturbed By Others*. A copy of each notification shall be given to the RPR.

In addition to the general written notification provided, it shall be the responsibility of the Contractor to keep such individual Owners advised of changes in their plan of operations that would affect such Owners.

Prior to beginning the work in the general vicinity of an existing utility service or facility, the Contractor shall again notify each such Owner of their plan of operation. If, in the Contractor's opinion, the Owner's assistance is needed to locate the utility service or facility or the presence of a representative of the Owner is desirable to observe the work, such advice should be included in the notification. Such notification shall be given by the most expeditious means to reach the utility owner's "Person to Contact" no later than two normal business days prior to the Contractor's commencement of operations in such general vicinity. The Contractor shall furnish a written summary of the notification to the RPR.

The Contractor's failure to give the two days' notice shall be cause for the Owner to suspend the Contractor's operations in the general vicinity of a utility service or facility.

Where the outside limits of an underground utility service have been located and staked on the ground, the Contractor shall be required to use hand excavation methods within 3 feet (1 m) of

such outside limits at such points as may be required to ensure protection from damage due to the Contractor's operations.

Should the Contractor damage or interrupt the operation of a utility service or facility by accident or otherwise, the Contractor shall immediately notify the proper authority and the RPR and shall take all reasonable measures to prevent further damage or interruption of service. The Contractor, in such events, shall cooperate with the utility service or facility owner and the RPR continuously until such damage has been repaired and service restored to the satisfaction of the utility or facility owner.

The Contractor shall bear all costs of damage and restoration of service to any utility service or facility due to their operations whether due to negligence or accident. The Owner reserves the right to deduct such costs from any monies due or which may become due the Contractor, or their own surety.

**70-16 Furnishing rights-of-way.** The Owner will be responsible for furnishing all rights-of-way upon which the work is to be constructed in advance of the Contractor's operations.

**70-17 Personal liability of public officials.** In carrying out any of the contract provisions or in exercising any power or authority granted by this contract, there shall be no liability upon the Engineer, RPR, their authorized representatives, or any officials of the Owner either personally or as an official of the Owner. It is understood that in such matters they act solely as agents and representatives of the Owner.

**70-18 No waiver of legal rights.** Upon completion of the work, the Owner will expeditiously make final inspection and notify the Contractor of final acceptance. Such final acceptance, however, shall not preclude or stop the Owner from correcting any measurement, estimate, or certificate made before or after completion of the work, nor shall the Owner be precluded or stopped from recovering from the Contractor or their surety, or both, such overpayment as may be sustained, or by failure on the part of the Contractor to fulfill their obligations under the contract. A waiver on the part of the Owner of any breach of any part of the contract shall not be held to be a waiver of any other or subsequent breach.

The Contractor, without prejudice to the terms of the contract, shall be liable to the Owner for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Owner's rights under any warranty or guaranty.

**70-19 Environmental protection.** The Contractor shall comply with all federal, state, and local laws and regulations controlling pollution of the environment. The Contractor shall take necessary precautions to prevent pollution of streams, lakes, ponds, and reservoirs with fuels, oils, asphalts, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

**70-20 Archaeological and historical findings.** Unless otherwise specified in this subsection, the Contractor is advised that the site of the work is not within any property, district, or site, and does not contain any building, structure, or object listed in the current National Register of Historic Places published by the United States Department of Interior.

Should the Contractor encounter, during their operations, any building, part of a building, structure, or object that is incongruous with its surroundings, the Contractor shall immediately cease operations in that location and notify the RPR. The RPR will immediately investigate the Contractor's finding and the Owner will direct the Contractor to either resume operations or to suspend operations as directed.

Should the Owner order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such shall be

covered by an appropriate contract change order or supplemental agreement as provided in Section 40, paragraph 40-04, *Extra Work*, and Section 90, paragraph 90-05, *Payment for Extra Work*. If appropriate, the contract change order or supplemental agreement shall include an extension of contract time in accordance with Section 80, paragraph 80-07, *Determination and Extension of Contract Time*.

**70-21 Insurance Requirements.** Throughout this project, the Contractor shall maintain insurance for Commercial General Liability, and Worker's Compensation as described in the contract.

**END OF SECTION 70**

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## Section 80 Execution and Progress

**80-01 Subletting of contract.** The Owner will not recognize any subcontractor on the work. The Contractor shall at all times when work is in progress be represented either in person, by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Resident Project Representative (RPR).

The Contractor shall perform, with his organization, an amount of work equal to at least **25** percent of the total contract cost.

Should the Contractor elect to assign their contract, said assignment shall be concurred in by the surety, shall be presented for the consideration and approval of the Owner, and shall be consummated only on the written approval of the Owner.

**The Contractor shall provide copies of all subcontracts to the RPR 14 prior to being utilized on the project. As a minimum, the information shall include the following:**

- Subcontractor's legal company name.
- Subcontractor's legal company address, including County name.
- Principal contact person's name, telephone and fax number.
- Complete narrative description, and dollar value of the work to be performed by the subcontractor.
- Copies of required insurance certificates in accordance with the specifications.
- Minority/ non-minority status.

**80-02 Notice to proceed (NTP).** The Owners notice to proceed will state the date on which contract time commences. The Contractor is expected to commence project operations within **10** days of the NTP date. The Contractor shall notify the RPR at least **24 hours** in advance of the time contract operations begins. The Contractor shall not commence any actual operations prior to the date on which the notice to proceed is issued by the Owner.

**80-03 Execution and progress.** Unless otherwise specified, the Contractor shall submit their coordinated construction schedule showing all work activities for the RPR's review and acceptance at least **10** days prior to the start of work. The Contractor's progress schedule, once accepted by the RPR, will represent the Contractor's baseline plan to accomplish the project in accordance with the terms and conditions of the Contract. The RPR will compare actual Contractor progress against the baseline schedule to determine that status of the Contractor's performance. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the plans and specifications within the time set forth in the proposal.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the RPR's request, submit a revised schedule for completion of the work within the contract time and modify their operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the execution of the work be discontinued for any reason, the Contractor shall notify the RPR at least 24 hours in advance of resuming operations.

The Contractor shall not commence any actual construction prior to the date on which the NTP is issued by the Owner.

The project schedule shall be prepared as a network diagram in Critical Path Method (CPM), Program Evaluation and Review Technique (PERT), or other format, or as otherwise specified. It

shall include information on the sequence of work activities, milestone dates, and activity duration. The schedule shall show all work items identified in the project proposal for each work area and shall include the project start date and end date.

The Contractor shall maintain the work schedule and provide an update and analysis of the progress schedule on a weekly basis, or as otherwise specified in the contract. Submission of the work schedule shall not relieve the Contractor of overall responsibility for scheduling, sequencing, and coordinating all work to comply with the requirements of the contract.

**80-04 Limitation of operations.** The Contractor shall control their operations and the operations of their subcontractors and all suppliers to provide for the free and unobstructed movement of aircraft in the air operations areas (AOA) of the airport.

When the work requires the Contractor to conduct their operations within an AOA of the airport, the work shall be coordinated with airport operations (through the RPR) at least 48 hours prior to commencement of such work. The Contractor shall not close an AOA until so authorized by the RPR and until the necessary temporary marking, signage and associated lighting is in place as provided in Section 70, paragraph 70-08, *Construction Safety and Phasing Plan (CSPP)*.

When the contract work requires the Contractor to work within an AOA of the airport on an intermittent basis (intermittent opening and closing of the AOA), the Contractor shall maintain constant communications as specified; immediately obey all instructions to vacate the AOA; and immediately obey all instructions to resume work in such AOA. Failure to maintain the specified communications or to obey instructions shall be cause for suspension of the Contractor's operations in the AOA until satisfactory conditions are provided.

The contractor shall be required to conform to safety standards contained in AC 150/5370-2, Operational Safety on Airports During Construction and the approved CSPP.

**80-04.1 Operational safety on airport during construction.** All Contractors' operations shall be conducted in accordance with the approved project Construction Safety and Phasing Plan (CSPP) and the Safety Plan Compliance Document (SPCD) and the provisions set forth within the current version of AC 150/5370-2, Operational Safety on Airports During Construction. The CSPP included within the contract documents conveys minimum requirements for operational safety on the airport during construction activities. The Contractor shall prepare and submit a SPCD that details how it proposes to comply with the requirements presented within the CSPP. The Contractor shall implement all necessary safety plan measures prior to commencement of any work activity. The Contractor shall conduct routine checks to assure compliance with the safety plan measures.

The Contractor is responsible to the Owner for the conduct of all subcontractors it employs on the project. The Contractor shall assure that all subcontractors are made aware of the requirements of the CSPP and SPCD and that they implement and maintain all necessary measures.

No deviation or modifications may be made to the approved CSPP and SPCD unless approved in writing by the Owner. The necessary coordination actions to review Contractor proposed modifications to an approved CSPP or approved SPCD can require a significant amount of time.

**80-05 Character of workers, methods, and equipment.** The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the contract, plans, and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

Any person employed by the Contractor or by any subcontractor who violates any operational regulations or operational safety requirements and, in the opinion of the RPR, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the RPR, be removed immediately by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without approval of the RPR. Should the Contractor fail to remove such person or persons, or fail to furnish suitable and sufficient personnel for the proper execution of the work, the RPR may suspend the work by written notice until compliance with such orders.

All equipment that is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the work shall not cause injury to previously completed work, adjacent property, or existing airport facilities due to its use.

When the methods and equipment to be used by the Contractor in accomplishing the work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the contract, plans, and specifications.

When the contract specifies the use of certain methods and equipment, such methods and equipment shall be used unless otherwise authorized by the RPR. If the Contractor desires to use a method or type of equipment other than specified in the contract, the Contractor may request authority from the RPR to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the RPR determines that the work produced does not meet contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of specified quality, or take such other corrective action as the RPR may direct. No change will be made in basis of payment for the contract items involved nor in contract time as a result of authorizing a change in methods or equipment under this paragraph.

**80-06 Temporary suspension of the work.** The Owner shall have the authority to suspend the work wholly, or in part, for such period or periods the Owner may deem necessary, due to unsuitable weather, or other conditions considered unfavorable for the execution of the work, or for such time necessary due to the failure on the part of the Contractor to carry out orders given or perform any or all provisions of the contract.

In the event that the Contractor is ordered by the Owner, in writing, to suspend work for some unforeseen cause not otherwise provided for in the contract and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the written order to suspend work to the effective date of the written order to resume the work. Claims for such compensation shall be filed with the RPR within the time period stated in the RPR's order to resume work. The Contractor shall submit with their own claim information substantiating the amount shown on the claim. The

RPR will forward the Contractor’s claim to the Owner for consideration in accordance with local laws or ordinances. No provision of this article shall be construed as entitling the Contractor to compensation for delays due to inclement weather or for any other delay provided for in the contract, plans, or specifications.

If it becomes necessary to suspend work for an indefinite period, the Contractor shall store all materials in such manner that they will not become an obstruction nor become damaged in any way. The Contractor shall take every precaution to prevent damage or deterioration of the work performed and provide for normal drainage of the work. The Contractor shall erect temporary structures where necessary to provide for traffic on, to, or from the airport.

**80-07 Determination and extension of contract time.** The number of calendar days shall be stated in the proposal and contract and shall be known as the Contract Time.

If the contract time requires extension for reasons beyond the Contractor’s control, it shall be adjusted as follows:

**80-07.1 Contract time based on calendar days.** Contract Time based on calendar days shall consist of the number of calendar days stated in the contract counting from the effective date of the Notice to Proceed and including all Saturdays, Sundays, holidays, and non-work days. All calendar days elapsing between the effective dates of the Owner’s orders to suspend and resume all work, due to causes not the fault of the Contractor, shall be excluded.

At the time of final payment, the contract time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in the contract time shall not consider either cost of work or the extension of contract time that has been covered by a change order or supplemental agreement. Charges against the contract time will cease as of the date of final acceptance.

**80-08 Failure to complete on time.** For each calendar day or working day, as specified in the contract, that any work remains uncompleted after the contract time (including all extensions and adjustments as provided in paragraph 80-07, *Determination and Extension of Contract Time*) the sum specified in the contract and proposal as liquidated damages (LD) will be deducted from any money due or to become due the Contractor or their own surety. Such deducted sums shall not be deducted as a penalty but shall be considered as liquidation of a reasonable portion of damages including but not limited to additional engineering services that will be incurred by the Owner should the Contractor fail to complete the work in the time provided in their contract.

Schedule	Liquidated Damages Cost	Allowed Construction Time
Taxiway F1 Rehabilitation	\$1,500	185 Calendar Days

The maximum construction time allowed for Schedule “Taxiway F1 Rehabilitation” will be the sum of the time allowed for individual schedules but not more than **185** days. Permitting the Contractor to continue and finish the work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way operate as a wavier on the part of the Owner of any of its rights under the contract.

**80-09 Default and termination of contract.** The Contractor shall be considered in default of their contract and such default will be considered as cause for the Owner to terminate the contract for any of the following reasons, if the Contractor:

- a. Fails to begin the work under the contract within the time specified in the Notice to Proceed, or
- b. Fails to perform the work or fails to provide sufficient workers, equipment and/or materials to assure completion of work in accordance with the terms of the contract, or
- c. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- d. Discontinues the execution of the work, or
- e. Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- g. Allows any final judgment to stand against the Contractor unsatisfied for a period of 10 days, or
- h. Makes an assignment for the benefit of creditors, or
- i. For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Should the Owner consider the Contractor in default of the contract for any reason above, the Owner shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If the Contractor or surety, within a period of 10 days after such notice, does not proceed in accordance therewith, then the Owner will, upon written notification from the RPR of the facts of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the execution of the work out of the hands of the Contractor. The Owner may appropriate or use any or all materials and equipment that have been mobilized for use in the work and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the RPR will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

**80-10 Termination for national emergencies.** The Owner shall terminate the contract or portion thereof by written notice when the Contractor is prevented from proceeding with the construction contract as a direct result of an Executive Order of the President with respect to the execution of war or in the interest of national defense.

When the contract, or any portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the actual number of units or items of work completed at the contract price or as mutually agreed for items of work partially completed or not started. No claims or loss of anticipated profits shall be considered.

Reimbursement for organization of the work, and other overhead expenses, (when not otherwise included in the contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained or ordered by the Contractor for the work and that are not incorporated in the work shall, at the option of the Contractor, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the RPR.



Termination of the contract or a portion thereof shall neither relieve the Contractor of their responsibilities for the completed work nor shall it relieve their surety of its obligation for and concerning any just claim arising out of the work performed.

**80-11 Work area, storage area and sequence of operations.** The Contractor shall obtain approval from the RPR prior to beginning any work in all areas of the airport. No operating runway, taxiway, or air operations area (AOA) shall be crossed, entered, or obstructed while it is operational. The Contractor shall plan and coordinate work in accordance with the approved CSPP and SPCD.

**END OF SECTION 80**

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## Section 90 Measurement and Payment

**90-01 Measurement of quantities.** All work completed under the contract will be measured by the RPR, or their authorized representatives, using United States Customary Units of Measurement.

The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 square feet (0.8 square meters) or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing by the RPR.

Unless otherwise specified, all contract items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

The term “lump sum” when used as an item of payment will mean complete payment for the work described in the contract. When a complete structure or structural unit (in effect, “lump sum” work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

When requested by the Contractor and approved by the RPR in writing, material specified to be measured by the cubic yard (cubic meter) may be weighed, and such weights will be converted to cubic yards (cubic meters) for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the RPR and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

### Measurement and Payment Terms

Term	Description
<b>Excavation and Embankment Volume</b>	In computing volumes of excavation, the average end area method will be used unless otherwise specified.
<b>Measurement and Proportion by Weight</b>	The term “ton” will mean the short ton consisting of 2,000 pounds (907 kg) avoirdupois. All materials that are measured or proportioned by weights shall be weighed on accurate, independently certified scales by competent, qualified personnel at locations designated by the RPR. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material is paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty daily at such times as the RPR directs, and each truck shall bear a plainly legible identification mark.
<b>Measurement by Volume</b>	Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable for the materials hauled, provided that the body is of such shape that the actual

Term	Description
	contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.
<b>Asphalt Material</b>	Asphalt materials will be measured by the gallon (liter) or ton (kg). When measured by volume, such volumes will be measured at 60°F (16°C) or will be corrected to the volume at 60°F (16°C) using ASTM D1250 for asphalts. Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when asphalt material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work. When asphalt materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, will be used for computing quantities.
<b>Cement</b>	Cement will be measured by the ton (kg) or hundredweight (km).
<b>Structure</b>	Structures will be measured according to neat lines shown on the plans or as altered to fit field conditions.
<b>Timber</b>	Timber will be measured by the thousand feet board measure (MFBM) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.
<b>Plates and Sheets</b>	The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of inch.
<b>Miscellaneous Items</b>	When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gauge, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.
<b>Scales</b>	Scales must be tested for accuracy and serviced before use. Scales for weighing materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the Contractor, or be certified permanently installed commercial scales. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end. Scales shall be accurate within 0.5% of the correct weight throughout the range of use. The Contractor shall have the scales checked under the observation of the RPR before beginning work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed 0.1% of the nominal rated capacity of the scale, but not less than one pound (454 grams). The use of spring balances will not be permitted. In the event inspection reveals the scales have been “overweighing” (indicating more than correct weight) they will be immediately adjusted. All materials received subsequent to the last previous correct weighting-accuracy test will be reduced by the percentage of error in excess of 0.5%.

Term	Description
	<p>In the event inspection reveals the scales have been under-weighting (indicating less than correct weight), they shall be immediately adjusted. No additional payment to the Contractor will be allowed for materials previously weighed and recorded.</p> <p>Beams, dials, platforms, and other scale equipment shall be so arranged that the operator and the RPR can safely and conveniently view them. Scale installations shall have available ten standard 50-pound (2.3 km) weights for testing the weighing equipment or suitable weights and devices for other approved equipment.</p> <p>All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other items specified in this subsection, for the weighing of materials for proportioning or payment, shall be included in the unit contract prices for the various items of the project.</p>
<b>Rental Equipment</b>	<p>Rental of equipment will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the work. Special equipment ordered in connection with extra work will be measured as agreed in the change order or supplemental agreement authorizing such work as provided in paragraph 90-05 <i>Payment for Extra Work</i>.</p>
<b>Pay Quantities</b>	<p>When the estimated quantities for a specific portion of the work are designated as the pay quantities in the contract, they shall be the final quantities for which payment for such specific portion of the work will be made, unless the dimensions of said portions of the work shown on the plans are revised by the RPR. If revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.</p>

**90-02 Scope of payment.** The Contractor shall receive and accept compensation provided for in the contract as full payment for furnishing all materials, for performing all work under the contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the execution thereof, subject to the provisions of Section 70, paragraph 70-18, *No Waiver of Legal Rights*.

When the “basis of payment” subsection of a technical specification requires that the contract price (price bid) include compensation for certain work or material essential to the item, this same work or material will not also be measured for payment under any other contract item which may appear elsewhere in the contract, plans, or specifications.

**90-03 Compensation for altered quantities.** When the accepted quantities of work vary from the quantities in the proposal, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the original contract price for the accepted quantities of work actually completed and accepted. No allowance, except as provided for in Section 40, paragraph 40-02, *Alteration of Work and Quantities*, will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly from such alterations or indirectly from their own unbalanced allocation of overhead and profit among the contract items, or from any other cause.

**90-04 Payment for omitted items.** As specified in Section 40, paragraph 40-03, *Omitted Items*, the RPR shall have the right to omit from the work (order nonperformance) any contract item, except major contract items, in the best interest of the Owner.

Should the RPR omit or order nonperformance of a contract item or portion of such item from the work, the Contractor shall accept payment in full at the contract prices for any work actually completed and acceptable prior to the RPR's order to omit or non-perform such contract item. Acceptable materials ordered by the Contractor or delivered on the work prior to the date of the RPR's order will be paid for at the actual cost to the Contractor and shall thereupon become the property of the Owner.

In addition to the reimbursement hereinbefore provided, the Contractor shall be reimbursed for all actual costs incurred for the purpose of performing the omitted contract item prior to the date of the RPR's order. Such additional costs incurred by the Contractor must be directly related to the deleted contract item and shall be supported by certified statements by the Contractor as to the nature the amount of such costs.

**90-05 Payment for extra work.** Extra work, performed in accordance with Section 40, paragraph 40-04, *Extra Work*, will be paid for at the contract prices or agreed prices specified in the change order or supplemental agreement authorizing the extra work.

**90-06 Partial payments.** Partial payments will be made to the Contractor at least once each month as the work progresses. Said payments will be based upon estimates, prepared by the RPR, of the value of the work performed and materials complete and in place, in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with paragraph 90-07, *Payment for Materials on Hand*. No partial payment will be made when the amount due to the Contractor since the last estimate amounts to less than five hundred dollars.

See Article 5 of the Contract for retainage provisions.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the RPR to be a part of the final quantity for the item of work in question. No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in paragraph 90-09, *Acceptance and Final Payment*.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

**90-07 Payment for materials on hand.** Partial payments may be made to the extent of the delivered cost of materials to be incorporated in the work, provided that such materials meet the requirements of the contract, plans, and specifications and are delivered to acceptable sites on the airport property or at other sites in the vicinity that are acceptable to the Owner. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

a. The material has been stored or stockpiled in a manner acceptable to the RPR at or on an approved site.

b. The Contractor has furnished the RPR with acceptable evidence of the quantity and quality of such stored or stockpiled materials.

c. The Contractor has furnished the RPR with satisfactory evidence that the material and transportation costs have been paid.

d. The Contractor has furnished the Owner legal title (free of liens or encumbrances of any kind) to the material stored or stockpiled.

e. The Contractor has furnished the Owner evidence that the material stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work.

It is understood and agreed that the transfer of title and the Owner's payment for such stored or stockpiled materials shall in no way relieve the Contractor of their responsibility for furnishing and placing such materials in accordance with the requirements of the contract, plans, and specifications.

In no case will the amount of partial payments for materials on hand exceed the contract price for such materials or the contract price for the contract item in which the material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant materials. The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this paragraph.

**90-08 Payment of withheld funds.** At the Contractor's option, if an Owner withholds retainage in accordance with the methods described in paragraph 90-06 *Partial Payments*, the Contractor may request that the Owner deposit the retainage into an escrow account. The Owner's deposit of retainage into an escrow account is subject to the following conditions:

a. The Contractor shall bear all expenses of establishing and maintaining an escrow account and escrow agreement acceptable to the Owner.

b. The Contractor shall deposit to and maintain in such escrow only those securities or bank certificates of deposit as are acceptable to the Owner and having a value not less than the retainage that would otherwise be withheld from partial payment.

c. The Contractor shall enter into an escrow agreement satisfactory to the Owner.

d. The Contractor shall obtain the written consent of the surety to such agreement.

**90-09 Acceptance and final payment.** When the contract work has been accepted in accordance with the requirements of Section 50, paragraph 50-15, *Final Acceptance*, the RPR will prepare the final estimate of the items of work actually performed. The Contractor shall approve the RPR's final estimate or advise the RPR of the Contractor's objections to the final estimate which are based on disputes in measurements or computations of the final quantities to be paid under the contract as amended by change order or supplemental agreement. The Contractor and the RPR shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within 30 calendar days of the Contractor's receipt of the RPR's final estimate. If, after such 30-day period, a dispute still exists, the Contractor may approve the RPR's estimate under protest of the quantities in dispute, and such disputed quantities shall be considered by the Owner as a claim in accordance with Section 50, paragraph 50-16, *Claims for Adjustment and Disputes*. After the Contractor has approved, or approved under protest, the RPR's final estimate, and after the RPR's receipt of the project closeout documentation required in paragraph 90-11, *Contractor Final Project Documentation*, final payment will be processed based on the entire sum, or the undisputed sum in case of approval under protest, determined to be due the Contractor less all

previous payments and all amounts to be deducted under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment. If the Contractor has filed a claim for additional compensation under the provisions of Section 50, paragraph 50-16, *Claims for Adjustments and Disputes*, or under the provisions of this paragraph, such claims will be considered by the Owner in accordance with local laws or ordinances. Upon final adjudication of such claims, any additional payment determined to be due the Contractor will be paid pursuant to a supplemental final estimate.

**90-10 Construction warranty.**

a. In addition to any other warranties in this contract, the Contractor warrants that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, workmanship, or design furnished, or performed by the Contractor or any subcontractor or supplier at any tier.

b. This warranty shall continue for a period of one year from the date of final acceptance of the work, except as noted. If the Owner takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one year from the date the Owner takes possession. However, this will not relieve the Contractor from corrective items required by the final acceptance of the project work. Light Emitting Diode emitting diode (LED) light fixtures with the exception of obstruction lighting, must be warranted by the manufacturer for a minimum of four (4) years after date of installation inclusive of all electronics.

c. The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Owner real or personal property, when that damage is the result of the Contractor's failure to conform to contract requirements; or any defect of equipment, material, workmanship, or design furnished by the Contractor.

d. The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one year from the date of repair or replacement.

e. The Owner will notify the Contractor, in writing, within seven (7) days after the discovery of any failure, defect, or damage.

f. If the Contractor fails to remedy any failure, defect, or damage within 14 days after receipt of notice, the Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

g. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall: (1) Obtain all warranties that would be given in normal commercial practice; (2) Require all warranties to be executed, in writing, for the benefit of the Owner, as directed by the Owner, and (3) Enforce all warranties for the benefit of the Owner.

h. This warranty shall not limit the Owner's rights with respect to latent defects, gross mistakes, or fraud.

**90-11 Contractor Final Project Documentation.** Approval of final payment to the Contractor is contingent upon completion and submittal of the items listed below. The final payment will not be approved until the RPR approves the Contractor's final submittal. The Contractor shall:



- a. Provide two (2) copies of all manufacturers warranties specified for materials, equipment, and installations.
- b. Provide weekly payroll records (not previously received) from the general Contractor and all subcontractors.
- c. Complete final cleanup in accordance with Section 40, paragraph 40-08, *Final Cleanup*.
- d. Complete all punch list items identified during the Final Inspection.
- e. Provide complete release of all claims for labor and material arising out of the Contract.
- f. Provide a certified statement signed by the subcontractors, indicating actual amounts paid to the Disadvantaged Business Enterprise (DBE) subcontractors and/or suppliers associated with the project.
- g. When applicable per state requirements, return copies of sales tax completion forms.
- h. Manufacturer's certifications for all items incorporated in the work.
- i. All required record drawings, as-built drawings or as-constructed drawings.
- j. Project Operation and Maintenance (O&M) Manual(s).
- k. Security for Construction Warranty.
- l. Equipment commissioning documentation submitted, if required.

**END OF SECTION 90**

**Article 11: Contract Signature Page**

This Contract is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CONTRACTOR

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

YUMA COUNTY AIRPORT AUTHORITY

\_\_\_\_\_  
Gladys Brown  
Airport Director

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date