

**MASTER AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES  
FOR AIRPORT IMPROVEMENTS  
AT PENSACOLA INTERNATIONAL AIRPORT**

**THIS MASTER AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR AIRPORT IMPROVEMENTS AT PENSACOLA INTERNATIONAL AIRPORT** (hereinafter referred to as this “Master Agreement”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017 (hereinafter referred to as the “Effective Date”) by and between the **CITY OF PENSACOLA, FLORIDA**, a municipal corporation created and existing under the laws of the State of Florida, with the business address of 222 West Main Street, Pensacola, Florida 32502 (hereinafter referred to as the “City”) and \_\_\_\_\_ (“Engineer”) a Florida \_\_\_\_\_, with a business address of \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, the City of Pensacola owns and operates the Pensacola International Airport (hereinafter referred to as the “Airport”) in Pensacola, Florida; and

**WHEREAS**, the Airport periodically engages in review, evaluation and analysis of its current and future design and infrastructure development needs and improvements and periodically requires engineering, architectural and surveying services for a variety of Airport improvement tasks and projects, including services relating to general design, construction administration and project inspection; and

**WHEREAS**, the Engineer is an established and highly respected engineering and design firm that possesses in-depth knowledge and expertise with respect to airport construction and development; and

**WHEREAS**, after negotiation, the parties have reached an understanding regarding certain professional services which may be performed by the Engineer with respect to the Airport; and

**WHEREAS**, as a result, the City has determined that it is in the best interests of the citizens of the City for the City to enter into this Master Agreement with the Engineer;

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF** the mutual covenants and conditions set forth in this Master Agreement, and for other good and valuable consideration, the City and the Engineer hereby agree as follows:

**Article 1 - General**

Section 1.1     The foregoing recitals are true and correct and are hereby incorporated herein by reference.

Section 1.2     The City anticipates that during the term of this Master Agreement, the City, as owner of Pensacola International Airport, will from time to time engage qualified firms and individuals to provide general design, construction administration, project inspection and other engineering, architectural and surveying services for a variety of Airport improvement tasks and projects, including those described in that certain City of Pensacola RFQ No. 17-022 entitled “Request for Qualifications,

Master Contract for Architectural and Engineering Services for Airport Improvements at Pensacola International Airport” (the “RFQ”) This Master Agreement, together with specific Work Orders entered into by the parties from time to time pursuant to this Master Agreement, shall govern the parties’ relationship and respective rights and obligations with respect to all services within the scope of this Master Agreement provided by the Engineer for Airport improvement projects during the term of this Master Agreement. The Engineer shall provide professional and consultation services to the City in accordance with the terms of this Master Agreement and the Work Orders entered into by the parties from time to time pursuant to this Master Agreement. All such services shall comport with applicable City of Pensacola codes and ordinances, including ordinances for the design, construction and retrofitting of projects, and with other applicable local, state and federal laws and regulations.

Section 1.3 Each specific task and project must be authorized by a written Work Order executed by both the City and the Engineer prior to commencement of any work or services by the Engineer on such task or project, and no work or services shall be performed under any Work Order until the City has first issued a written notice to proceed to the Engineer. Thereafter, prior to granting approval for the Engineer to proceed to a subsequent phase of a Work Order, the City its sole discretion may require the Engineer to submit such documents and drawings as may be reasonably necessary for review and approval. The City shall provide to the Engineer the scope of work for a particular task or project, and the Engineer shall prepare a proposed Work Order using the form of Work Order attached hereto as Exhibit “A” and shall provide the proposed Work Order to the City for review, action and approval. Each Work Order shall include, without limitation, the scope of work, schedule of work, specific description of services, compensation to the Engineer, and changes to any of the provisions of this Master Agreement that are to apply to such Work Order. Upon delivery of the proposed Work Order to the City, the City and the Engineer shall negotiate in good faith to reach agreement on the provisions of such Work Order. If the parties are unable to agree on all of the provisions of the Work Order, then upon the request of the City, the Engineer shall provide to the City its best and final offer with respect to such Work Order, and thereupon the City shall, in its sole and absolute discretion, either accept such offer in writing or deliver to the Engineer a written notice of termination of negotiations with respect to such Work Order. If the City elects to terminate negotiations, the City in its sole discretion may enter into an agreement with another architect, engineer or surveyor to perform all or any of the work contemplated by the proposed Work Order.

Section 1.4 This Agreement shall commence on and as of the Effective Date and shall terminate at 5:00 p.m. CST on the fifth (5<sup>th</sup>) anniversary of the Effective Date (the “Termination Date”) unless sooner terminated pursuant to other provisions of this Master Agreement or by mutual written consent of the parties; provided, however, that notwithstanding the foregoing, this Master Agreement and all uncompleted Work Orders shall continue in full force and effect until such Work Orders have been fully completed and performed by the Engineer in accordance with the terms and provisions of this Master Agreement and such Work Orders.

Section 1.5 Except as otherwise expressly stated in a Work Order, compensation to the Engineer for all work and services under a Work Order shall be determined in accordance with the compensation schedule attached hereto as Exhibit “B” and incorporated herein by reference (the “Compensation Schedule”). During August of each contract year, either party may request changes in the Compensation Schedule. Both the Engineer and the City agree to enter into good faith negotiations concerning such changes upon receipt of a written request from the other party detailing the proposed changes to the Compensation Schedule and specifying the reasons for such changes. If the parties agree to any change to the Compensation Schedule, the parties shall enter into an appropriate amendment to this Master Agreement, and such change shall apply to all Work Orders entered into on or after October 1

of such contract year but shall not apply to any existing Work Orders. In the event that the parties fail to reach agreement on the proposed changes to the Compensation Schedule within thirty (30) days after the commencement of such negotiations, this Master Agreement shall terminate October 1 of that year; provided, however, that notwithstanding such termination of this Master Agreement, this Master Agreement and all uncompleted Work Orders shall continue in full force and effect until such Work Orders have been fully completed and performed by the Engineer in accordance with the terms and provisions of this Master Agreement and such Work Orders. The Engineer warrants, represents and agrees that at no time during the Term of this Agreement shall the rates charged to the City be in excess of any other published or unpublished rates paid by any other client of the Engineer for work and services comparable to those contemplated by this Master Agreement.

Section 1.6 The Engineer is one of several firms selected by the City to perform professional services on the same or similar terms as in this Agreement. The City expressly reserves the exclusive right to assign specific Work Orders to the firm it deems best suited, in its sole and absolute discretion, for the type of work to be accomplished. Accordingly, this Agreement does not guarantee any amount or type of Work Orders to be assigned to the Engineer. Further, notwithstanding any contrary provision in this Master Agreement, the City expressly reserves the right, at any time and from time to time, and in its sole and absolute discretion, to enter into master agreements, task-specific agreements and Work Orders, and project-specific agreements and work orders with firms and individuals other than the Engineer for engineering, architectural, surveying and other professional services for any one or more Airport improvement tasks or projects. Without limiting the generality of the foregoing and notwithstanding any other provision of this Master Agreement, the City has not made and does not hereby make any representation, warranty or guaranty, written or verbal, express or implied, as to the type, quantity, quality, profitability or desirability of any tasks, work, services or Work Orders, if any, that the City may request of the Engineer pursuant to this Master Agreement.

Section 1.7 Except to the extent, if any, that any of the provisions of this Master Agreement are expressly modified by the provisions of a particular Work Order or are manifestly inapplicable to a particular Work Order, all provisions of this Master Agreement shall be deemed to be included in and constitute an integral and material part of each Work Order entered into by the parties pursuant to this Master Agreement, whether or not such provisions are referred to in or expressly incorporated by reference into such Work Order. In the event of any irreconcilable conflict between a provision of this Master Agreement and a provision of a Work Order, the provision of the Work Order shall control.

Section 1.8 The Charter of the City of Pensacola provides that the Mayor shall serve as the City's Chief Executive Officer. Upon approval by the City Council of this Master Agreement, the Mayor shall be authorized and obligated to perform, discharge and enforce all of the obligations, rights and responsibilities of the City which are created by, referenced or expressly or implicitly contained in this Agreement. The Mayor may, in his discretion, enforce and perform the rights and obligations of the City through such designees as he may select and identify to the signatories herein, and until such notice to the contrary has been provided, the Mayor hereby designates the Airport Director as his designee, unless provided otherwise or required by law. The Airport Director and such person or persons as the Mayor or the Airport Director may designate in writing from time to time shall be the City's authorized representatives for all purposes under this Master Agreement and related Work Orders. The Airport Director and all such designated persons are referred to in this Master Agreement as the "Airport Representative". Without limiting the generality of the foregoing, the Airport Representative shall have authority to execute all Work Orders and to issue on behalf of the City all notices required or permitted under this Master Agreement.

Section 1.9 This Master Agreement was awarded and entered into under and pursuant to the RFQ identified in Section 1.2 above. All terms, provisions and conditions of the RFQ are hereby attached hereto as Exhibit C and incorporated by reference into this Master Agreement. In the event of a conflict between the terms of the RFQ and the terms of this Master Agreement, the terms of this Master Agreement shall prevail.

Section 1.10 The Engineer holds itself out as possessing, and hereby represents to the City that Engineer possesses, special professional experience and expertise with regard to engineering, architectural and surveying services for airport facilities and projects, and the City has expressly relied upon such representation as an inducement to enter into this Master Agreement. Accordingly, the work and services provided by the Engineer under this Master Agreement and the Work Orders issued pursuant to this Master Agreement shall be performed by skilled, qualified and competent personnel and in accordance with the standard of care used under similar circumstances by design professionals with similar experience and expertise as that hereby represented by the Engineer. Without limiting the generality of the foregoing, the Engineer and the Engineer's work product shall comply with applicable construction, building and health codes and other applicable federal, state and local rules, regulations and laws, including environmental, pollution control and ecology, state building code, electric code, state fire prevention regulations, NFPA, ASTM, ANSI, NEMA, O.S.H.A. restrictions, utility company rules and regulations, Americans with Disabilities Act requirements, AASHTO standards, Florida Department of Transportation Standards for highways and bridges, Airport signage standards, Federal Aviation Regulation (FAR), FAA Advisory Circulars, and the rules, regulations and requirements of all other entities having jurisdiction with respect to the work performed under this Master Agreement and related Work Orders, as the same now exist or may thereafter become effective through the completion of the work. The Engineer shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications and other services furnished pursuant to this Agreement or any Work Order and shall correct or shall revise, without additional compensation, any errors or deficiencies in its work product (including the work product of its subcontractors) and shall make such other revisions as are necessary as the result of the failure of the Engineer or its subcontractors to provide an accurate and properly constructible product in its designs, drawings, specifications and other services. Further, the Engineer acknowledges and agrees that the City possesses no engineering expertise or knowledge comparable to that of Engineer and that the City is under no obligation to consult, and does not intend to consult, any engineer or design professional employed by or under contract with the City with respect to any work performed by the Engineer under this Master Agreement or any Work Order. Rather, the City shall be entitled to rely, and shall rely, solely upon the expertise, knowledge, advice and judgment of the Engineer and its subcontractors with respect to all services of the Engineer under this Master Agreement and each Work Order and that the City's approval of or consent to any advice or work product of the Engineer or its subcontractors shall not relieve the Engineer of any of its duties and obligations to the City nor constitute any assumption of risk or liability by the City.

Section 1.11 All CADD files required by this Master Agreement or a Work Order shall be delivered in the AutoCad Version format required by the City. The CADD layer guidelines recommended by the American Institute of Architects, the American Consulting Engineers Council and the American Society of Civil Engineers and approved by the City shall be utilized.

Section 1.12 With respect to any requirements in this Master Agreement or a Work Order for the Engineer to prepare and present detailed estimates of the cost of construction during various design phases, the detailed estimate of the cost of construction to be provided shall include, at a minimum, detailed quantity takeoffs, measurements of units, unit prices for labor and materials, and an allowance

for contractor's overhead, profit and bond, and shall reflect the impact of variables associated with the project such as its nature, location and duration. If the Engineer's detailed estimate of the cost of construction for any design phase exceeds the then-current construction cost limit for that project as agreed upon by the Engineer and the City, the Engineer shall revise the drawings and specifications for that project, as approved by the City, until the Engineer's detailed estimate is no greater than such construction cost limit. All revisions required by this Section shall be performed by the Engineer at no additional cost to the City.

Section 1.13 The Engineer's services for each project that is authorized by a Work Order shall include without limitation, to the extent pertinent to such project, the architectural, civil, structural, traffic, electrical engineering, building controls, fire alarms and detection system, public address system, security, life safety, mechanical, plumbing, HVAC, fire protection, graphics, signage, marking, landscaping, environmental, geotechnical, surveying and other services required to design the project.

## **Article 2 – Professional Services in General**

Section 2.1 Most professional services provided by the Engineer under a Work Order will be divided into two categories of services: Basic Services and Special Services, in accordance with industry standards. Basic Services (i.e., Basic Design Services and Basic Construction Administration Services) are defined in Articles 5 and 6 below and are deemed included within each Work Order unless the Work Order explicitly provides otherwise. Special Services are separated from Basic Services because their need or exact scope cannot be fully established until the project is under way. If feasible, the Work Order shall identify the need for and anticipated scope of Special Services for the subject project and shall provide for a lump sum fee for such anticipated Special Services. Special Services shall be performed as and when specifically approved by the City in writing and as and when funds are available.

Section 2.2 In general, the services required to be provided by the Engineer pursuant to this Master Agreement and applicable Work Orders may include any or all of the following services and disciplines:

1. Civil Engineering
2. Structural Engineering
3. Mechanical Engineering
4. Electrical Engineering
5. Transportation Engineering
6. Architectural Design
7. Architectural Interior Design Services
8. Value Engineering
9. Geotechnical Investigation
10. Surveying
11. Environmental Engineering
12. Environmental Assessments

13. Inspection Services
14. Independent Cost Estimating
15. Building Controls
16. Construction Administration
17. Security
18. Life Safety
19. Fire Protection
20. Landscaping
21. Graphics, Signage and Marking
22. Data and Communications Systems
23. Public Address Systems
24. Other design services as requested by the City and agreed to by the Engineer.

Section 2.3 Articles 3 through 6 below describe the professional services that are or may be required from the Engineer pursuant to this Master Agreement and applicable Work Orders.

#### **Article 3 – Staff Extension Services**

Section 3.1 Staff Extension Services shall consist of small projects, day-to-day professional services, and miscellaneous services that are needed immediately in a manner that formulation and approval of a new Work Order is not deemed to be necessary by the City.

Section 3.2 Promptly after the execution of this Master Agreement, the Engineer shall prepare a proposed Work Order for Staff Extension Services for the City's review, action and approval in accordance with Section 1.3 above. The proposed Work Order shall establish a maximum fee amount for Staff Extension Services and the procedures by which the Engineer shall draw down on this fee as and when approved Staff Extension Services are performed. If and when such maximum fee amount has been exhausted, then another Work Order must be formulated and executed by both parties in order for Staff Extension Services to continue.

Section 3.3 The Engineer shall be entitled to receive payment only for the performance of such Staff Extension Services that prior to commencement of such services have been authorized in writing by the Airport Representative (which may include e-mail authorization).

#### **Article 4 – Planning and Programming Services**

Section 4.1 Planning and programming studies are unique to each project and must be authorized by and described in detail in a Work Order. In general, the Engineer will prepare interim reports as the planning and programming studies progress for the Airport Representative's review and comment. The Engineer and the Airport Representative will coordinate all of the work and services required.

Section 4.2 Potential planning and programming services may include, without limitation:

1. Environmental assessments
2. Environmental impact statements
3. FAR Part 150 Noise Studies
4. Financial studies
5. Economic development impact studies
6. Terminal area planning
7. Site planning
8. Feasibility studies
9. Aviation business development
10. Review and analysis of proposed improvements
11. Financial consultation
12. Assistance with DBE Program
13. Annual airport facility inspection and reporting
14. Airport pavement analysis
15. Annual update of Airport's Capital Improvement Program
16. Annual update and negotiation of FAA and state grant programs
17. Preparation of FAA AIP grant pre-application and application Forms
18. Preparation of state grant applications
19. Participation in FAA Joint Planning Conferences
20. Participation in system planning or similar planning activities
21. Environmental audits
22. Environmental compliance actions
23. Regulatory review
24. Environmental monitoring
25. Technical reviews
26. Value engineering
27. Property procurement assistance
28. Administrative assistance
29. Provide FAA-required third-party review of professional service contracts
30. Prepare scope of work packages including preliminary designs (35 percent complete) for preparation of final designs by others

31. Develop, implement and maintain Facilities Management Information Systems
32. Monitor and update lease exhibits as required
33. Participate in public information programs and/or public hearings relating to Airport planning/development.
34. Assist in preparation of PFC applications
35. Monitor and maintain ground and aerial Surveys
36. Prepare videotape presentations
37. Other duties as requested by the City and agreed to by the Engineer

### **Article 5 – Design Services**

Section 5.1 The Engineer's design services are divided into two categories: Basic Design Services and Special Design Services. Each Work Order for a particular Airport project shall be deemed to include all Basic Design Services (as more particularly described in Section 5.2) unless the Work Order explicitly provides otherwise. Special Design Services must be explicitly described in and authorized by a Work Order.

Section 5.2 Basic Design Services are divided into five (5) distinct phases: Phase I – Preliminary Design; Phase II – 60% Design; Phase III – 90% Design; Phase IV – 100% Design; and Phase V – Bid/Award Services and consist of the following:

#### Phase I--Preliminary Design

Task 1.1 The Engineer shall coordinate and attend one (1) pre-design meeting with the Airport Representative, Florida DOT, and any appropriate FAA representatives at the Airport to establish the preliminary design goals and methods and provide written minutes of the meeting and distribute to all attendees within three (3) working days of the meeting.

Task 1.2 The Engineer shall collect, review, compile, and summarize available data related to the project. The Engineer will review the Airport's files and records to determine relevant information for the Airport to provide, such as the airport master plan, airport layout plan, pavement evaluation reports, aerial photogrammetry, survey data, previous design plans as-builts, specifications, and geotechnical investigation reports. The Engineer shall provide the written summary and assessment of this available relevant data to the Airport Representative.

Task 1.3 The Engineer shall review available geotechnical data and develop a written geotechnical scope of services with fees for the Airport Representative's review and approval prior to assigning any such services. This scope of services shall include identification and layout of test locations and the required lab testing. The Engineer shall coordinate and manage all geotechnical services. If a Florida licensed geotechnical engineer is not employed by the Engineer, the Engineer shall engage a Florida licensed geotechnical engineer, as necessary, as a subcontractor of the Engineer, and the Engineer shall be responsible and liable to the City for the work and work product of such geotechnical engineer, whether the geotechnical engineer is an employee of the Engineer or is an independent subcontractor. All geotechnical test borings will be coordinated with the Airport Representative and the Airport Operations prior to boring. At the conclusion of the geotechnical



testing, the Engineer shall provide to the Airport Representative a written geotechnical report, which report shall include the Engineer's conclusions and recommendations.

Task 1.4 The Engineer shall review available land survey data and develop a written land survey scope of services with fees for the Airport Representative's review and approval prior to assigning any such services. The Engineer shall coordinate and manage all land surveying services. If a Florida licensed land surveyor is not employed by the Engineer, the Engineer shall engage a Florida licensed land surveyor, as necessary, as a subcontractor of the Engineer, and the Engineer shall be responsible and liable to the City for the work and work product of such surveyor, whether the surveyor is an employee of the Engineer or is an independent subcontractor. All surveying activities will be coordinated with the Airport Representative and the Airport FAA Operations prior to surveying. The Engineer shall coordinate and review with the surveyor specific geometric criteria required for topography, profile and cross-sectional survey of existing drainage areas, above and below ground utilities, existing site improvements, and definition of any obvious topographic depressions. All survey data shall be provided to the Airport Representative, as required, in acceptable electronic format.

Task 1.5 The Engineer shall attend a meeting with the appropriate environmental and/or stormwater drainage agencies, if appropriate, to ascertain drainage design and permitting requirements. The Engineer shall record the meeting minutes. Following this meeting, the Engineer shall develop all exhibits, calculations, reports, applications, etc. necessary to provide the information required to approve and issue a permit for all improvements defined in the Work Order(s). The City shall be responsible for providing all environmental and/or stormwater drainage permit application fees.

Task 1.6 The Engineer shall prepare 30-percent schematic drawings, plans, outline specifications, construction cost estimate, and Preliminary Engineer's Report (if applicable). The preliminary design shall evaluate and identify specific elements of the project for a technically and economically sound project. The development of the preliminary design will be in coordination with the Airport Representative and other Airport personnel for their input.

Task 1.7 The Engineer will provide to the Airport Representative a quality control plan for each Work Order within two weeks after the notice to proceed is issued by the City. The Engineer shall conduct in-house quality control review of the preliminary design plans, specifications, cost estimate, and Preliminary Engineer's Report (if applicable) prior to submittal to the Airport Representative and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 1.8 The Engineer shall submit and distribute three (3) sets of the preliminary plans, specifications, cost estimate, and Preliminary Engineer's Report (if applicable) to the Airport Representative for review, comment and approval to proceed to the 60% Design phase.

Task 1.9 The Engineer shall coordinate and attend one (1) meeting at the Airport with the Airport Representative and other appropriate persons to review the Preliminary Design submittal. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

## Phase II - 60% Design

Task 2.1 The Engineer shall review all comments received from the Airport Representative from the Preliminary Design submittal review and incorporate applicable comments into plans, specifications, cost estimate, and Engineer's Report (if applicable). The Engineer shall provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 2.2 The Engineer shall prepare 60% plans, specifications, cost estimate, and Engineer's Report. The development of the 60% design documents will be in coordination with the Airport Representative and other Airport personnel for their input.

Task 2.3 The Engineer shall conduct an in-house quality control review of the 60% design plans, specifications, cost estimate, and Engineer's Report (if applicable) prior to submittal to the Airport Representative, and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 2.4 The Engineer shall submit and distribute three (3) sets of the 60% plans, specifications, cost estimate, and Engineer's Report (if applicable) for review, comment, and approval to proceed to the 90% Design phase by the Airport Representative and other appropriate persons.

Task 2.5 The Engineer shall coordinate and attend one (1) meeting at the Airport with the Airport Representative and other appropriate persons to review the 60% Design submittal. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

## Phase III - 90% Design

Task 3.1 The Engineer shall review all comments received from the Airport Representative from the 60% Design submittal review and incorporate applicable comments into plans, specifications, cost estimate, and Engineer's Report (if applicable). The Engineer shall provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 3.2 The Engineer shall prepare 90% plans, specifications, cost estimate, and Engineer's Report (if applicable). The development of the 90% design documents will be in coordination with the Airport's authorized representative(s) for their input.

Task 3.3 The Engineer shall conduct an in-house quality control review of the 90% design plans, specifications, cost estimate, and Engineer's Report (if applicable) prior to submittal to the Airport Representative, and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 3.4 The Engineer shall submit and distribute three (3) sets of the 90% plans, specifications, cost estimate, and Engineer's Report (if applicable) for review, comment, and approval to proceed to 90% design by the Airport Representative and other appropriate persons.

Task 3.5 The Engineer shall coordinate and attend one (1) meeting at the Airport to review the 90% Design submittal. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

#### Phase IV - 100% (Bid Set) Design

Task 4.1 The Engineer shall review all comments received from the Airport Representative from the 90% Design submittal review and incorporate applicable comments into plans, specifications, cost estimate, and Engineer's Report (if applicable) and provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 4.2 The Engineer shall prepare Bid Set plans and technical specifications in accordance with FAA standards. The Engineer shall prepare the FAA analysis for construction DBE effort and coordinate with the Airport Representative for submittal to FAA. Specifications shall be based on a unit price total cost construction contract or lump sum total cost construction contract as appropriate. Front-end specification requirements and format shall be provided by the City including, but not limited to, the advertisement to bid, legal requirements, proposal, contract, bond forms, general provisions, labor rates, minority participation requirements, special conditions, insurance requirements, and any other pertinent and or required information.

Task 4.3 The Engineer shall prepare Bid Set Engineer's Report (if applicable), estimate of probable construction costs, and FAA Sponsor certification.

Task 4.4 The Engineer shall conduct an in-house quality control review of the Bid Set design plans, specifications, cost estimate, Engineer's Report (if applicable), and related documentation prior to submittal to the Airport Representative, and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 4.5 The Engineer shall submit and distribute six (6) sets of Bid Set design plans and specifications for final review and approval by the Airport Representative, Florida DOT, FAA and other appropriate persons (three sets to Airport Representative, one set to Florida DOT, one set to FAA, and remaining set to other appropriate persons). The Engineer will coordinate and assist the City in securing all applicable governmental agency comments, approvals, and local, state and federal permits.

Task 4.6 The Engineer shall coordinate and attend one (1) meeting at the Airport to review the Bid Set design plans, specifications, cost estimate, and final Engineer's Report (if applicable) with the Airport Representative, Florida DOT, FAA staff and other appropriate persons and agencies. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

Task 4.7 The Engineer shall incorporate applicable comments received from the Airport Representative, Florida DOT, FAA staff and other appropriate persons and agencies resulting from the review of the Bid Set design documents and provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 4.8 After approval of the Bid Set design documents by the Airport Representative, Florida DOT, FAA staff and other appropriate persons and agencies, the Engineer shall provide and distribute to the Airport Representative four (4) sets of blueline plans; one (1) set of reproducible drawings; one (1) set of electronic drawings on diskette (AutoCad v2002 or as defined by the City); one (1) set of electronic specifications, Engineer's Report (if applicable), and cost estimate on CD (Word and Excel); four (4) sets of specifications; four (4) Engineer's Reports (if applicable); and one (1) set of reproducible specifications, all for the City's bidding purposes. Changes to the final plans, specifications, or Engineer's Report (if applicable) after this submittal to the Airport Representative will be performed under a duly executed change order for additional time and cost, except changes due to an error or omission by the Engineer.

#### Phase V - Bid/Award Services

Task 5.1 The Engineer shall attend pre-bid conference at the Airport, receive comments, record the minutes of the conference and distribute the minutes to the Airport Representative, prospective contractors and other attendees.

Task 5.2 The Engineer shall issue all required addenda to revise plans, specifications and other contract documents prepared by the Engineer in order to (1) provide clarifications, (2) correct discrepancies or (3) correct errors and/or omissions.

Task 5.3 The Engineer shall tabulate all bids received in a written or electronic format acceptable to the Airport Representative, review and evaluate bids for correctness, qualifications of low bidder, DBE participation goals and other pertinent factors, and make recommendations of award. The Engineer cannot and does not guarantee that bids will not vary from Engineer's estimate of probable construction costs.

Section 5.3 Special Design Services that may be furnished by the Engineer if explicitly authorized by a Work Order executed by both parties, may include without limitation:

5.3.1. Performance of, or retention of a subcontractor to perform, subsurface investigations, including performance of test borings, soil samples, and other foundation investigations, laboratory analyses of the samples, and engineering analyses. The Engineer or the subcontractor shall prepare a detailed report of all findings, and the Engineer shall deliver to the Airport Representative two copies of the report.

5.3.2. Performance of, or retention of a subcontractor to perform, field surveys and investigations in order to establish or verify boundaries and monuments, topographic surveys, route surveys, prepare property or easement descriptions, perform associated office work under the direction of a Registered Professional Surveyor, and deliver to the Airport Representative a mylar of all final plats, with field notes in bound standard-size field books, or in such other form as approved by the Airport Representative.

5.3.3. Performance, or retention of a specialized subcontractor to perform, aerial photography and computer mapping.

5.3.4. Travel to points outside the Pensacola, Florida, area if such travel is reasonably necessary to accomplish a task.

5.3.5. Preparation of special studies and reports, including but not limited to environmental documents (including representation and testimony at hearings and community meetings) and grant applications.

5.3.6 In the event of termination or suspension of the project, provision of such services as are reasonable and necessary for preserving partially finished work products or for the recording of work products in a particular manner (including without limitation the making of record prints of drawings).

5.3.78. Assistance to the City in securing any special licenses or permits which may be required for the completion of the Project, it being understood by the parties that the fees for such special licenses and permits shall be paid by the City.

5.3.8 Reproduction of plans, specifications, reports, and other materials other than those reproductions required of the Engineer elsewhere in this Master Agreement or in a Work Order and other than reproductions for the office use of the Engineer and the Engineer's subcontractors.

5.3.9. Provision of renderings or scale models of the project.

5.3.10. Provision of any other additional services related to the project not otherwise included in the Basic Design Services or required by this Master Agreement or a Work Order and not customarily furnished in accordance with generally accepted architectural and engineering practice.

## **Article 6 – Construction Services**

Section 6.1 The Engineer's Construction Services are divided into two categories: Basic Construction Administration Services and Special Construction Services. Each Work Order for a particular Airport project shall be deemed to include all Basic Construction Administration Services (as more particularly described in this Article 6) unless the Work Order explicitly provides otherwise. Special Construction Services must be explicitly described in and authorized by a Work Order. Construction Services and Design Services for a project will generally be authorized in a single Work Order, although for particular projects, Construction Services may be authorized in a separate Work Order.

Section 6.2 Basic Construction Administration Services consist of the following:

Task 6.2.1 The Engineer shall participate in a preconstruction conference at the Airport.

Task 6.2.2 Appropriate personnel of the Engineer shall make periodic visits to the construction site to inspect, observe and familiarize themselves generally with the progress and quality of the work and to determine if the work is generally proceeding in accordance with the contract documents, including the contractor's construction schedule, and the respective subcontractors'

construction schedules. Promptly after each such visit, the Engineer shall deliver to the Airport Representative a written report to advise of any known or suspected deviation from the construction documents, the contractor's construction schedule, or any of the subcontractors' construction schedules. The Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures; for the safety precautions and programs in connection with the project construction; for the acts or omissions of the contractor, subcontractors, suppliers, any of their agents or employees, or any other person performing any of the work under the contract documents; or for the failure of any such persons to carry out the work in accordance with the contract documents.

Task 6.2.3 The Engineer shall review and approve or take other appropriate action upon the shop drawings, samples, and other submittals furnished by the contractor and subcontractors and submitted to the Engineer. The Engineer shall maintain a log of all contractor and subcontractor submittals which shall include the submittal date, the action taken, and the date returned.

Task 6.2.4 The Engineer shall prepare routine change orders as required; act as interpreter of the terms and conditions of the contract documents and judge of the performance thereunder by the parties thereto and make decisions on claims of the City and the contractor relating to the execution and progress of the work and other matters and questions related thereto.

Task 6.2.5 The Engineer shall provide design clarification and recommendations to assist the City in resolving field problems relating to the construction. The Engineer shall evaluate contractor change and cost proposals and substitutions and recommend to the City to either approve or disapprove the contractor's proposal or substitution.

Task 6.2.6 The Engineer shall review contractor applications for payment and supporting data, review the amount owed to the contractor, and recommend and approve in writing all payments to the contractor in accordance with the contract documents.

Task 6.2.7 The Engineer shall perform, together with the Airport Representative and his designees, a final inspection to determine if the project has been completed in accordance with the contract documents and if the contractor has fulfilled all of its obligations thereunder. Based on such final inspection, the Engineer shall recommend in writing approval or disapproval, in whole or in part, of final payment to the contractor.

Task 6.2.8 The Engineer shall assist the City in receiving and forwarding to the Airport Representative written warranties and related documents assembled by the contractor.

Task 6.2.9 The Engineer shall provide one set of reproducible drawings and CADD files "record drawings", which shall become the property of the City, corrected to show all material changes made in the work during the construction of the project. Such corrections shall be based upon "as-built" prints, drawings, field sketches, and other data furnished to the Engineer by the Airport or the contractor, upon change orders and items of change or clarification issued during construction, and upon approved submittals logged by the Engineer.

Section 6.3 Special Construction Services that may be furnished by the Engineer if explicitly authorized by a Work Order executed by both parties, may include without limitation:

6.3.1 The furnishing of a Resident Project Representative and assistants who shall act as

directed by Engineer in order to provide more extensive owner representation at the project site during the construction phase. The Resident Project Representative, through more extensive on-site observations of the work in progress, field checks of materials and equipment, and maintenance of job site records on conditions and activities, shall assist Engineer in determining that the project is proceeding in accordance with the contract documents, but the furnishings of such resident project representation shall not make Engineer responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for contractor's failure to perform the construction work in accordance with the construction documents.

6.3.2 Consultation with the Airport concerning replacement of any construction work made necessary by (1) work damaged by fire or any other causes or (2) a material amount of defective or neglected work; and shall furnish professional services as may be required in connection with the replacement of such work.

6.3.3 Consultation and other services after completion of the construction phase, such as frequent inspections during any warranty period and reporting observed discrepancies under warranty called for in any construction contract.

6.3.4 Assistance to the City in making arrangements for the work to proceed in the event that the contractor is declared in default by City for any reason or otherwise ceases work on the project.

6.3.5 Assistance to the City as expert witnesses and/or fact witnesses in any legal proceedings or litigation arising from the development, permitting or construction of the project. The witnesses shall be designated by and at the sole discretion of the attorneys representing the City in such proceedings or litigation.

6.3.6 Travel to points outside the Pensacola, Florida area if such travel is reasonably necessary to accomplish a task.

6.3.7 Preparation of special studies and reports, including without limitation environmental documents (including representation and testimony at hearings and community meetings) and grant applications.

6.3.8 Reproduction of plans, specifications, reports, and other materials other than those reproductions required of the Engineer elsewhere in this Master Agreement or in a Work Order and other than reproductions for the office use of the Engineer and the Engineer's subcontractors.

6.3.9 In the event of termination or suspension of the project, provision of such services as are reasonable and necessary for preserving partially finished work products or for the recording of work products in a particular manner (including without limitation the making of record prints of drawings).

6.3.10 Provision of any other services related to the project not otherwise included in the Basic Services or other Special Services and not customarily furnished in accordance with generally accepted architectural and engineering practice.

Section 6.4 During construction, the Engineer shall be a representative of the City and shall

advise and consult with the City during the provision of Construction Services. The Engineer shall have authority to act on behalf of the City only to the extent expressly authorized in this Master Agreement, a Work Order, a duly executed amendment to this Master Agreement or a Work Order, or a written document duly executed by the Airport Director. Accordingly, the Engineer shall not imply or represent to third parties (whether by words, silence, actions or inaction) that the Engineer has authority to act on behalf of the City except as so expressly authorized by the City.

Section 6.5 In addition to the authority granted the Engineer elsewhere in this Agreement, the Engineer shall have the following authority to act on behalf of the City:

6.5.1 If deemed appropriate by the Engineer, the Engineer shall on the City's behalf prepare, reproduce and distribute supplemental drawings and specifications in response to requests for information by the contractor.

6.5.2 The Engineer shall have authority to reject work that does not conform to the applicable contract documents. Whenever the Engineer considers it necessary or advisable, the Engineer shall have authority to require inspection or testing of the work in accordance with the provisions of the applicable contract documents, whether or not such work is fabricated, installed or completed.

#### **Article 7 – Payments to Engineer**

Section 7.1 The City shall pay to the Engineer, for satisfactory performance of work and services, an amount not to exceed the amount defined and approved by the City in each separate Work Order, which shall include all direct charges, indirect charges and reimbursable expenses, if any. The Engineer shall bill the City on a monthly basis, unless otherwise provided in a Work Order, and at the amounts and upon the terms set forth in the Work Order, for services rendered toward the completion of the scope of work established in the Work Order which meet standards of quality established under this Master Agreement. The payment shall be accompanied by any supporting data required by the City. Where the monthly amount includes work done by a subcontractor, the Engineer shall attach copies of that subcontractor's invoice for such work. Invoices and supporting data shall be delivered to the City in accordance with Section 30.1 below.

Section 7.2 Invoices received from the Engineer pursuant to each Work Order will be reviewed and approved by the City; provided, however, that notwithstanding any contrary provision in this Master Agreement or any Work Order, the City's approval or payment of an invoice shall not constitute the City's acceptance of defective work or services nor any waiver by the City of any of its rights or remedies under the Work Order or this Master Agreement, nor any waiver by the City of any breach or default (whether or not known to the City) by the Engineer under the Work Order or this Master Agreement. Payment of invoices approved by the City shall be made within thirty (30) days following receipt of invoices. All invoices are payable by the City under the terms of Local Government Prompt Payment Act, Sections 218.70 *et seq.*, Florida Statutes. Invoices must reference the current purchase order number (if any).

Section 7.3 The Engineer agrees to pay each of its subcontractors for satisfactory performance of work for which the City has paid the Engineer, no later than ten (10) days from the Engineer's receipt of each payment from the City. The Engineer agrees further to return retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the foregoing time frames shall be permitted



only for good cause and with the prior written approval of the City. This section applies to both DBE and non-DBE subcontractors.

Section 7.4 The Engineer shall deliver to the City for approval and acceptance, and before eligible for final payment under any Work Order, all documents and materials prepared by and for the City pursuant to such Work Order.

### **Article 8 - Truth-In-Negotiation Certificate**

Section 8.1 The Engineer's execution of this Master Agreement and any Work Order shall constitute the Engineer's certification that the wage rates, factual unit costs and other costs used to determine the compensation provided for in such Work Order are accurate, complete and current as of the date of such Work Order and comply with Section 1.5 and the Compensation Schedule then in effect as of the date of such Work Order. Accordingly, this Master Agreement and each Work Order executed by the Engineer shall also constitute a truth-in-negotiation certificate under Section 287.55(5)(a) certifying the foregoing. In the event that the City determines that any such rates or costs are based on inaccurate, incomplete or non-current wage rates or on inaccurate representations of fees paid to outside engineers, or otherwise fails to comply with Section 1.5 or the Compensation Schedule in effect as of the date of such Work Order, the Engineer shall reimburse the City promptly upon demand for any excess compensation received as a result thereof. Accordingly, the original contract price and any additions thereto shall be adjusted to exclude any sums that the City determines the contract price was increased due to such inaccurate, incomplete or non-current wage rates or other factual unit costs or due to the Engineer's failure to comply with Section 1.5 or the Compensation Schedule. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

### **Article 9 – Default, Damages, Delays and Termination**

Section 9.1 In the event of a substantial failure by the City to perform its obligations under this Master Agreement or a Work Order through no fault of the Engineer, the Engineer shall give the City written notice specifying such failure in reasonable detail. In the event that the City fails to cure such failure within thirty (30) days after receipt of such notice, or, if such failure cannot be reasonably cured within thirty (30) days, the City fails to commence to cure such failure within thirty (30) days and to continuously and diligently prosecute such cure to completion, the City shall be in default under this Master Agreement and such Work Order, and the Engineer may terminate this Master Agreement or such Work Order, as the case may be, by giving the City not less than fifteen (15) days prior written notice of termination and may pursue such other remedies against the City as may be available under this Master Agreement, at law or in equity; provided, however, that in no event shall the City be liable to the Engineer for consequential, special, exemplary or punitive damages.

Section 9.2 The City may terminate this Master Agreement and any Work Order, in whole or in part, at any time with or without cause immediately upon delivery to the Engineer of written notice of termination. If the termination is without cause, then as the Engineer's sole and exclusive remedy, the Engineer shall be paid for services actually rendered to the City's satisfaction through the date of termination, but in no event shall any amount be allowed or paid for anticipated profit or overhead on unperformed services. If the termination is for cause, which cause may include without limitation the Engineer's misuse of funds, fraud, lack of compliance with applicable rules, laws, regulations, and ordinances, failure to perform its obligations in a timely manner in accordance with this Master

Agreement or any Work Order, and any other breach or violation by the Engineer of any representation, warranty or obligation under this Master Agreement or any Work Order, the City may exercise any and all rights and remedies available at law, in equity or under this Agreement and, without waiving any other rights or remedies, take over the work and prosecute the work under any Work Order to completion by contract with third parties or otherwise, and, in addition to any other damages suffered or incurred by the City, the Engineer shall be liable to the City for all additional costs, direct and indirect, incurred by the City to terminate the Engineer, complete such work and to correct any deficiencies caused by the Engineer. If, after notice of termination for cause, it is determined that cause for termination does not exist, then the termination shall be deemed to have been effected without cause, and in such event, the Engineer shall be paid for the services actually rendered to the City's satisfaction to the date of termination as Engineer's sole and exclusive remedy. In no event shall the Engineer be entitled to recover any amount or payment for anticipated profit or overhead on unperformed services.

Section 9.3 After receipt of a Termination Notice and except as otherwise directed by the City in writing, the Engineer shall:

- a. stop work on the date and to the extent specified;
- b. terminate and settle all orders and subcontracts relating to the performance of the terminated work;
- c. transfer all work in process, completed work, and other material related to the terminated work to the City;
- d. continue and complete in accordance with this Master Agreement and applicable Work Orders all parts of the work that have not been terminated.

Section 9.4 The rights and remedies of the City and Engineer provided in this Article are in addition to any other rights and remedies provided by law or in equity or elsewhere in this Master Agreement or an applicable Work Order.

Section 9.5 All revisions and corrections to any work performed by Engineer under this Agreement or any Work Order that is the result of the Engineer's mistake or error or Engineer's failure to comply with any provision of this Master Agreement or applicable Work Order shall be performed by the Engineer at no additional cost to the City. Neither the City's review, approval or acceptance of, nor payment for, any services performed by the Engineer shall be construed to operate as a waiver of any rights, remedies, claims or causes of action arising out of the performance of this Master Agreement or any Work Order. Additionally, the Engineer shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Engineer's negligent performance of any of the services furnished under this Agreement. The rights and remedies of the City provided for under this section are in addition to any other rights and remedies otherwise provided by law.

Section 9.6 The City, in writing, may order the Engineer to suspend, delay, or interrupt all or any part of the work under a Work Order for the period of time that the City determines to be appropriate for the convenience of the City. The Engineer expressly acknowledges and agrees that it shall receive no damages by reason of any such suspension, delay or interruption, nor by reason of any other delay caused by the City, in whole or in part, unless the delay is the result of fraud, bad faith or active interference by the City. The Engineer's sole and exclusive remedy against the City for any such suspension, delay or interruption ordered or caused by the City, in whole or in part, shall be the right to seek and obtain an equitable extension of the time provided for in the Work Order for the completion of the work thereunder.

## **Article 10 – Personnel**

Section 10.1 The Engineer represents and covenants that it has or will secure, at its own expense, all necessary personnel required to perform the services contemplated by this Master Agreement and authorized by each Work Order. Such personnel shall not be employees of or have any contractual relationship with the City.

Section 10.2 All of the services required under this Master Agreement and each Work Order shall be performed by the Engineer or under its supervision, and Engineer shall be fully and completely responsible therefore. All personnel engaged in performing the services shall be fully qualified and, to the extent required, authorized, licensed or permitted under federal, state and local law to perform such services.

Section 10.3 The Engineer shall promptly notify the City in writing of any changes, deletions, additions or substitutions of the Engineer's key personnel. As of the date hereof, the Engineer's key personnel and their respective positions are: \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; and \_\_\_\_\_.

## **Article 11 – Subcontracting**

Section 11.1 All work or services required by a Work Order that cannot reasonably, competently and satisfactorily be performed by qualified employees of the Engineer shall be performed by competent and qualified subcontractors selected, retained and paid by the Engineer. The Engineer shall be fully responsible and liable to the City for the work of each subcontractor.

Section 11.2 Upon the City's request at any time, whether before or after the execution of a Work Order, the Engineer shall give the City written notice of the specific items of work under the Work Order that the Engineer intends to subcontract to others, together with the names of potential subcontractors. The City reserves the right to reject the use of subcontractors for any or all work to be performed under a proposed Work Order and to reject the use of a particular subcontractor for work under a proposed Work Order. The City further reserves the right to inspect all facilities of any potential subcontractor in order to determine, in the City's sole and absolute discretion, the capability of a subcontractor to perform properly under the Work Order.

Section 11.3 The Engineer is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

Section 11.4 If a subcontractor fails to perform satisfactorily or to make satisfactory and timely progress in the performance of any work under a Work Order, and the Engineer determines that it is necessary or desirable to replace such subcontractor to ensure completion of the work in a timely fashion, the Engineer will promptly do so, subject to the City's rights under Section 11.1 above with respect to the new subcontractor.

Section 11.5 The Engineer agrees that no markup for overhead and profit on subcontractor's invoices shall be allowed on any Work Order.

Section 11.6 Nothing contained in this Article or elsewhere in this Master Agreement shall be

construed to limit the Engineer's right or obligation to properly supervise and direct its subcontractors.

### **Article 12 - Federal and State Tax**

Section 12.1 The City is exempt from federal tax and state tax for tangible personal Property. The City will sign an exemption certificate submitted by the Engineer. The Engineer shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor shall the Engineer be authorized to use the City's tax exemption number in securing such materials.

Section 12.2 The Engineer shall be solely responsible for payment of all FICA, Social Security and other required benefits, taxes and withholdings for its employees.

### **Article 13 - Availability of Funds**

Section 13.1 Pursuant to the laws of Florida, the obligations of the City under this Master Agreement and Work Orders issued hereunder are subject to the availability of funds lawfully appropriated for the required purpose by the City. Nothing contained in this Master Agreement or any Work Order shall be construed to obligate the City to appropriate funds for any work or services contemplated or required by this Master Agreement or any Work Order.

### **Article 14 - Insurance and Indemnification**

Section 14.1 Before starting and until termination of work for or on behalf of the City, the Engineer shall procure and maintain insurance of the types and to the limits specified in this Article.

Section 14.2 The term City as used in this Article is defined to mean the City of Pensacola itself, and its subsidiaries, affiliates, elected and appointed officials, employees, volunteers, representatives and agents. Notwithstanding the foregoing, however, the term City as used in Section 14.7 shall mean the City of Pensacola and its officers and employees.

Section 14.3 Insurance shall be issued by an insurer whose business reputation; financial stability and claims payment reputation is satisfactory to the City in its sole and absolute discretion, for the City's protection only. Unless otherwise agreed by a fully executed amendment to this Master Agreement, the amounts, form and type of insurance shall conform to the following minimum requirements:

14.3.1 Workers' Compensation. The Engineer shall purchase and maintain workers compensation insurance coverage for all of its workers compensation obligations under Florida law. Additionally, such policy, or a separate policy, must include Employers Liability Coverage of at least \$100,000 each person -accident, \$100,000 each person - disease, and \$500,000 aggregate - disease.

14.3.2 Commercial General, Automobile, Professional, Environmental Impairment and Umbrella Liability Coverages. The Engineer shall purchase and maintain coverage for commercial general liability and automobile loss and liability on forms no more restrictive than

the latest editions of the Commercial General Liability and Business Auto policies filed and approved by the Insurance Services Office. Excluding Professional Liability, Workers Compensation, and if applicable, Environmental Impairment policies, the City shall be named an additional insured on all other such policies, and such coverage shall be at least as broad as that provided to the named insured under such policies. The City shall not be liable for premium payment nor entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of \$1,000,000.00 per occurrence and per accident, combined single limit for liability, must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required. If the required limits of liability afforded become impaired or reduced by reason of any claim, then the Engineer agrees to cause such limits of \$1,000,000.00 per occurrence to be reinstated under the policy.

14.3.2.1 Commercial General Liability coverage must be provided, including bodily injury and property damage liability for premises, operations, products and completed operations, contractual liability and independent contractors. Broad Form Commercial General Liability coverage or its equivalent shall provide at least broad form contractual liability applicable to this specific Master Agreement, personal injury liability and broad form property damage liability. The coverage shall be written on occurrence-type basis.

14.3.2.2 Business Auto Policy coverage must be provided, including bodily injury and property damage arising out of operation, maintenance or use of owned, non-owned and hired automobiles and employee non-ownership use.

14.3.2.3 Professional Liability insurance coverage must be provided to afford protection for errors and omissions arising out of services provided under or associated with this Master Agreement and Work Orders issued pursuant hereto in the minimum amount of \$1,000,000.00.

14.3.2.4 Environmental Impairment insurance must be provided with minimum limits of \$1,000,000.00 per occurrence and in the aggregate.

14.3.2.5 Umbrella Liability Insurance coverage shall not be more restrictive than the underlying insurance policy coverages. The coverage shall be written on an occurrence-type basis.

14.4 Certificates of Insurance. Required insurance shall be documented by Certificates of Insurance that provide that the City shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. Except as described in Section 14.3.2 above, the City of Pensacola shall be named on each Certificate as an Additional Insured and this Master Agreement shall be listed. If required by the City, the Engineer shall furnish copies of the Engineer's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies; provided, however, that the Engineer may first redact any trade secret, confidential or proprietary information contained therein which is not material to the Engineer's obligations under this Master Agreement or a Work Order. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City, an ACORD 25. Any wording in a Certificate which would make notification of cancellation, non-renewal or adverse change or restriction in coverage to the City an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent. The Engineer shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable

to the City and shall file with the City Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the City, the Engineer shall, upon instructions of the City, cease all operations under this Master Agreement and all Work Orders until directed by the City, in writing, to resume operations. The Certificate Holder address shall read: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, FL 32521.

14.5 Insurance of the Engineer Primary. The Engineer required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the Engineer's coverage. The Engineer's policies of coverage will be considered primary as relates to all provisions of this Master Agreement and each Work Order.

14.6 Loss Control and Safety. Notwithstanding any other provision of this Master Agreement or any Work Order, the Engineer shall retain control over its employees, agents, servants and subcontractors, as well as control over its invitees, and its activities on and about the subject premises and the manner in which such activities shall be undertaken and to that end, the Engineer shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the Engineer for the protection of all persons, including employees and property. The Engineer shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

14.7 Hold Harmless. The Engineer shall indemnify and hold harmless the City, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Engineer or persons employed or utilized by the Engineer in the performance of this Master Agreement and any Work Order.

14.8 Indemnity Obligations Not Limited by Insurance. It is understood and agreed that the Engineer's obligations under Section 14.7 are not and shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

14.9 No Waiver of Sovereign Immunity. Nothing in this Article 14 shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim or legal liability against the City. This Article 14 shall in no way be construed as a waiver, in whole or in part, of the City's sovereign immunity under the constitution, statutes and case law of the State of Florida.

## **Article 15 – Compliance with Laws and Regulations**

Section 15.1 The Engineer shall conform to all federal, state and local laws and regulations, including all City of Pensacola codes and ordinances, which are applicable to the work and services provided by the Engineer under this Master Agreement or any Work Order.

Section 15.2 The Engineer shall obtain and maintain in force at all times, and ensure that all subcontractors obtain and maintain in force at all times, all licenses, permits and other certificates required by federal, state, county, or municipal authorities for operations under the terms of this Master Agreement and each Work Order, and shall provide the City with copies of

all required licenses, permits, and other certificates prior to commencing work under any this Master Agreement or any Work Order.

Section 15.3 The Engineer agrees to observe all security requirements of the Transportation Security Administration, 49 CFR §1542 and the Airport Security Program as may be applicable and as the same may, from time to time, be amended, and to take such steps as may be necessary or directed by the City to ensure that employees, invitees, agents and guests observe these requirements.

Section 15.4 The Engineer shall not take any action, or fail to take any action that it is obligated to take, that would constitute or result in a violation by the Engineer or the City of any federal, state or local government law, statute, ordinance, rule or regulation.

#### **Article 16 - Successors and Assigns**

Section 16.1 The City and the Engineer each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Master Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Master Agreement and each Work Order. Neither the City nor the Engineer shall assign, sublet, convey or transfer its interest in this Master Agreement or any Work Order without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of the Airport Representative or any officer or agent of the City which may be a party or signatory to this Master Agreement or any Work Order, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Engineer.

#### **Article 17 – Governing Law, Jurisdiction, Venue, Remedies and Attorneys’ Fees**

Section 17.1 This Master Agreement and each Work Order shall be governed by and construed in accordance with the laws of the State of Florida as well as applicable local and federal law.

Section 17.2 Engineer hereby submits to the personal jurisdiction of the courts of the State of Florida over the Engineer with respect to any legal action to interpret, construe or enforce this Master Agreement or any Work Order and agrees that Escambia County, Florida is a convenient forum for any such legal action and shall be the exclusive venue for any such legal action. Unless explicitly stated otherwise in this Master Agreement or a Work Order, no remedy conferred upon any party by this Master Agreement or any Work Order shall be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 17.3 In any legal action or proceeding brought by either party for the interpretation, construction or enforcement of this Master Agreement or any Work Order, the prevailing party in such action or proceeding shall be entitled to attorneys’ fees and costs from the losing party.

#### **Article 18 - Conflict of Interest**

Section 18.1 The Engineer represents that it presently has no interest and shall acquire no

interest, either direct or indirect, which would conflict in any manner with the performance of services required under this Master Agreement or under any Work Order executed by Engineer pursuant to this Master Agreement, as provided for in Florida Statutes Section 112.311. The Engineer further represents that no person having any interest shall be employed for the performance of any such services.

Section 18.2 The Engineer shall promptly notify the City in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Engineer's judgment or quality of services provided or to be provided under this Master Agreement or any Work Order. Such written notification shall identify the prospective business association, interest or circumstance and the nature of work that the Engineer may undertake, and shall request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Engineer. The City agrees to notify the Engineer of its opinion by certified mail within thirty (30) days of receipt of notification by the Engineer. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Engineer, the City shall so state in its notification to the Engineer and such notification shall constitute the City's waiver of any right to assert a conflict of interest by reason of such association, interest or circumstance with respect to the particular work identified in the Engineer's notification to the City. The City's notification to the Engineer is not and shall not be construed to be legal advice to the Engineer and may not be relied upon by the Engineer to determine whether Engineer's action or contemplated action is or will be in compliance with any applicable law, rule or regulation or any applicable ethical rule or regulation.

Section 18.3 Neither the Engineer nor any of its employees, agents, and representatives shall offer or give to an officer, official or employee of the City gifts, entertainment, payments, loans, or other gratuities. The Engineer acknowledges knowledge of the City of Pensacola ordinances and the State of Florida's ethics statutes, and to the extent applicable to the Engineer, the Engineer agrees to comply with such statutes.

#### **Article 19 – Force Majeure Delays**

Section 19.1 Neither party shall be in default under this Master Agreement or a Work Order by reason of any delay caused by *force majeure* which may include, but are not limited to, acts of God, natural or public health emergencies, labor disputes, freight embargoes, acts of war or terrorism, fuel shortages, seizure of all or any part of the Airport by governmental authorities, and severe and unforeseeable weather conditions. Notwithstanding the foregoing or any other provision of this Master Agreement, in the event of any *force majeure* delay, the Engineer shall be entitled only to additional time in which to complete the work required by the Work Order, and in no event shall any *force majeure* delay be grounds for any money damages, pay adjustment or increase in compensation of any type or kind.

#### **Article 20 – Engineer's Authority, Indebtedness**

Section 20.1 The Engineer has not authority to, and shall not, pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness of any kind whatsoever. Without limiting the generality of the foregoing, the Engineer does not have the power or authority to bind the City in any promise, agreement or representation not explicitly authorized by this Master Agreement, a Work Order or a written document executed by the Airport Representative.



Section 20.2 The Engineer warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Master Agreement or any Work Order executed by the Engineer.

### **Article 21 – Confidentiality, Ownership of Documents and Public Records**

Section 21.1 All written and oral information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the City or at its expense shall be kept confidential by the Engineer and shall not be disclosed to any other party, directly or indirectly, without the City's prior written consent unless required by Chapter 119, Florida Statutes or a lawful court order.

Section 21.2 All drawings, maps, sketches, models, surveys, renderings, plans and other data and documents (whether complete or incomplete) developed, created or purchased under this Master Agreement or a Work Order or at the City's expense shall be and remain the sole and exclusive property of the City and may be reproduced and reused by the Engineer only with the prior written permission of the City in its sole and absolute discretion.

Section 21.3 The Engineer acknowledges that this Master Agreement and any related financial records, audits, reports, plans, correspondence, emails and other documents and communications, in whatever form or format, may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended from time to time (the "Public Records Laws"). The Engineer shall at all times comply with the Public Records Laws. In the event the Engineer fails to comply with the Public Records Laws, the City may, without prejudice to any other right or remedy and after giving the Engineer and its surety, if any, seven (7) days' written notice, during which period the Engineer still fails to allow access to such documents, terminate this Master Agreement for cause.

Without limiting the generality of the foregoing, the Engineer shall:

21.3.1 Keep and maintain public records required by the City to perform the services under this Agreement.

21.3.2 Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

21.3.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following the completion of the Agreement if the Engineer does not transfer the records to the City.

21.3.4 Upon completion of this Agreement, transfer, at no cost, to City, all public records in possession of the Engineer or keep and maintain public records required by the City to perform the services under this Agreement. If Consultant/Contractor/Vendor transfers all public records to City upon completion of the Agreement, the Engineer shall destroy any duplicate

public records that are exempt or confidential and exempt from public records disclosure requirements. If the Engineer keeps and maintains public records upon completion of the Agreement, the Engineer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

**IF THE ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ENGINEER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: THE OFFICE OF THE CITY ATTORNEY, (850) 435-1715, [PUBLICRECORDS@CITYOFPENSACOLA.COM](mailto:PUBLICRECORDS@CITYOFPENSACOLA.COM), 222 WEST MAIN STREET, PENSACOLA, FL 32502.**

Section 21.4 When any drawings, maps, sketches, models, surveys, renderings, plans or other data and documents belonging to the City as hereinabove provided are provided to other parties with the City's consent, the Engineer shall ensure return of the City's property by collecting a deposit equal to the cost of reproduction or replacement thereof by the Engineer. Such deposit shall be returned if the City's property is timely returned in a useable condition. Otherwise, such deposit shall be retained by the Engineer, and Engineer shall promptly reproduce or replace such property for the City.

#### **Article 22 - Independent Contractor Relationship**

Section 22.1 The Engineer is, and shall be, in the performance of all work services and activities under this Master Agreement and each Work Order, an independent contractor and not an employee, agent or servant of the City. All persons engaged in any of the work or services required to be performed by the Engineer pursuant to this Master Agreement or any Work Order shall at all times and in all places be subject to the Engineer's sole direction, supervision, and control. The Engineer shall exercise control over the means, methods and manner in which it and its employees and subcontractors perform the work, and in all respects the Engineer's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees, agents or servants of the City.

#### **Article 23 - Contingent Fees**

Section 23.1 The Engineer warrants that it has not employed or retained any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Engineer, to solicit or secure this Master Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Master Agreement. For the breach or violation of this provision, the City shall have the right to terminate this Master Agreement without liability and, at its discretion, to deduct from any

amounts due and owing to the Engineer, or otherwise recover from the Engineer, the full amount of such fee, commission, percentage, gift or consideration.

#### **Article 24 - Nondiscrimination**

Section 24.1 The Engineer warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, sex, age, national origin, or disability.

Section 24.1 During the performance of this Master Agreement, the Engineer, for itself, its assignees, and successors in interest (hereinafter referred to as the “Engineer”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

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

discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

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

#### **Article 25 – Survival; Affirmation of Warranties**

Section 25.1 All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Master Agreement and each Work Order and the consummation of the transactions contemplated hereby and thereby.

Section 25.2 All representations and warranties by the Engineer set forth in this Agreement shall be deemed to be ratified and affirmed on and as of the date of each Work Order executed by the Engineer.

#### **Article 26 - Miscellaneous**

Section 26.1 This Master Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and that there are no agreements, covenants, conditions, promises or understandings related to the subject matter of this Master Agreement other than those stated herein. All prior negotiations, understandings and agreements between the parties related to the subject matter hereof are hereby superseded.

Section 26.2 None of the provisions, terms and conditions contained in this Master Agreement may be added to, modified, superseded, waived or otherwise altered, except by a written instrument of equal dignity executed by the parties hereto.

Section 26.3 Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any article or section

Section 26.4 If any term or provision of this Master Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Master Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Master Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 26.4 All provisions of this Master Agreement which, by their inherent character, sense and context, are intended to survive termination of this Master Agreement, shall survive the termination of this Master Agreement.

Section 26.5 For the purpose of this Master Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory and

regulatory provisions implementing, consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

Section 26.6 If the Engineer discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Master Agreement or any Work Order, or is otherwise in doubt as to the meaning of any provision of this Master Agreement or any Work Order, the Engineer shall immediately notify the City and request clarification of the City's interpretation of this Master Agreement or Work Order, as the case may be.

Section 26.7 This Master Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

Section 26.8 The failure of the Engineer or the City to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either party's right to thereafter enforce the same in strict accordance with this Agreement or as a waiver or relinquishment of any other provision, right or remedy.

Section 26.9 At the City's request, the Engineer shall allow itself to be joined as a party in any legal proceeding that involves the City regarding the design, construction, or installation of any matter which is the subject of this Agreement. This provision is for the benefit of the City and not for the benefit of any other party. **PURSUANT TO FLORIDA STATUTES, SECTION 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF ENGINEER MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**

#### **Article 27 - Authority to Practice**

Section 27.1 The Engineer hereby represents and warrants that it has, and will continue to maintain in good standing during the term of this Master Agreement, all licenses, permits and approvals required by the State of Florida and any other governmental authority in order for the Engineer to conduct its business and to perform its services and obligations as contemplated by this Master Agreement, and that it will at all times during the term of this Master Agreement conduct its business activities in a professional and reputable manner.

Section 27.2 The Engineer shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Master Agreement. Without limiting the generality of the foregoing, the Engineer shall observe all rules and regulations of federal, state, and local officials relating to the subject matter of this Master Agreement.

## **Article 28 - Changes to Work Orders**

Section 28.1 The City reserves the right to make changes in the scope of work of any Work Order, including alterations, reductions herein or additions thereto. Upon receipt by the Engineer of the City's notifications of a contemplated change, the Engineer shall (1) if requested by the City provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City in writing if the contemplated change shall affect the Engineer's ability to meet the completion dates or schedules of the Work Order.

Section 28.2 If the City so instructs in writing, the Engineer shall suspend work on that portion of the Work affected by a contemplated change, pending the City's decision to proceed with the change.

Section 28.3 If the City elects to make the change, the City shall issue a Work Order amendment or change order and the Engineer shall not commence work on any such change until such written amendment or change order has been issued and executed by each of the parties.

## **Article 29 –Engineer's Inspection of City Records and Airport Property; Unforeseeable Conditions**

Section 29.1 The City shall make available to the Engineer, for the Engineer's inspection, review and reproduction at the Engineer's expense, all Airport-related information, data, reports, files, records, maps, plans and specifications in the City's possession (hereinafter referred to collectively as the "Airport Records"). The Airport Records shall be made available during the City's normal business hours as and where maintained, and in the form maintained, by the City in the ordinary course of business.

Section 29.2 By its execution of each Work Order, the Engineer shall be deemed to have actual knowledge of all matters that a diligent inspection of the Airport Records prior to execution of such Work Order would have disclosed. Accordingly, the Engineer's failure to perform a diligent inspection of the Airport Records shall not relieve the Engineer from any of its responsibilities under this Master Agreement or the applicable Work Order, nor shall it be considered the basis for any claim for additional time or compensation.

Section 29.3 By its execution of each Work Order, the Engineer shall be deemed to have actual knowledge of all matters, including general and local conditions, that a diligent on-site inspection of any pertinent portion of Airport property prior to execution of such Work Order would have disclosed. Accordingly, the Engineer's failure to perform such diligent inspection shall not relieve the Engineer from any of its responsibilities under this Master Agreement or the applicable Work Order, nor shall it be considered the basis for any claim for additional time or compensation.

Section 29.4 The City expressly disclaims any warranty, express or implied, including but not limited to any implied warranty of constructability, that the information, data, reports, files, record, maps, plans, specifications and other Airport Records in the City's possession are or were accurate, complete, practical, consistent or constructible or that any Airports improvements were actually constructed in accordance therewith.

Section 29.5 An adjustment in the compensation due the Engineer under a Work Order or in the scope of work of a Work Order shall be made on account of unforeseeable conditions only (1) if such conditions were not known by or disclosed to the Engineer prior to its execution of the Work Order, (2)

were not contemplated by this Master Agreement or the Work Order; and (3) could not have been ascertained or discovered by a diligent inspection of the City's records under Section 29.2 above or of the site under Section 29.3 above. If additional funding of a Work Order is required due to such unforeseeable conditions, then either (i) the City and the Engineer shall modify the project and scope of work so as to eliminate the need for additional funding or (ii) the City will commit additional funding and the parties shall execute an appropriate amendment to the Work Order.

**Article 30 - Notices**

Section 30.1 All notices by either party to the other that are required or permitted by this Master Agreement or any Work Order shall be made by depositing such notice either in the registered or certified mail of the United States of America, postage prepaid, or with another reputable overnight delivery service requiring signature for receipt, and such notice shall be deemed to have been delivered and received on the date of such depositing correctly addressed notice. All notices to the City shall be addressed to:

Airport Director  
Pensacola International Airport  
2430 Airport Blvd., Suite 225  
Pensacola, FL 32504

and all notices to the Engineer shall be addressed to:

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## **Article 31 – Access to Records and Reports**

Section 31.1 The Engineer shall maintain an acceptable cost accounting system. The Engineer shall provide the City, the Federal Aviation Administration, the Comptroller General of the United States, and the Florida Department of Transportation or any of their duly authorized representatives access to any books, documents, paper, and records of the Engineer which are directly pertinent to this Master Agreement or any Work Order for the purposes of making an audit, examination, excerpts, reproductions and transcriptions. The Engineer shall maintain all books, records and reports required under this Master Agreement for a period of not less than three years after the later of (i) the termination of this Master Agreement, or (ii) the date the City makes final payment under the final Work Order issued under this Master Agreement, or (iii) the date that all other pending matters related to this Master Agreement or a Work Order are concluded.

## **Article 32 – Civil Rights Act of 1964, Title VI**

Section 32.1 During the performance of this Master Agreement, the Engineer, for itself, its assignees and successors in interest (hereinafter referred to as Engineer) agrees as follows:

32.1.1 Compliance with Regulations. The Engineer shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as Regulations), which are herein incorporated by reference and made a part of this Master Agreement.

32.1.2 Nondiscrimination. The Engineer, with regard to the work performed by it during the Master Agreement, shall not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Master Agreement covers a program set forth in Appendix B of the Regulations.

32.1.3 Solicitations for Subcontract, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this Master Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

32.1.4 Information and Reports. The Engineer shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instruction. Where any information required of the Engineer is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.



32.1.5 Sanctions for Noncompliance. In the event of the Engineer's noncompliance with the nondiscrimination provisions of this Master Agreement, the City shall impose such contract sanctions as it or the FAA may determine to be appropriate, including but not limited to:

- a. withholding of payments to the Engineer under the Master Agreement and applicable Work Order until the Engineer complies, and/or
- b. cancellation, termination, or suspension of the Master Agreement and/or one or more Work Orders, in whole or in part.

32.1.6 Incorporation of Provisions. The Engineer shall include the provisions of paragraph 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant hereto. The Engineer shall take such action with respect to any subcontract or procurement as the City of the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City to enter into such litigation to protect the interests of the City and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

### **Article 33- Disadvantaged Business Enterprise (DBE)**

Section 33.1 DBE Participation. The City has submitted a Disadvantaged Business Enterprise program for the Airport in accordance with 49 CFR Part 26. An aspirational DBE goal will be established by the City on an annual basis in accordance with the methodology set forth in the program. The Engineer will be advised of the annual aspirational goals and shall be required to make good faith efforts to subcontract the set percentage of the dollar value of the work to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). Individuals who are rebuttably presumed to be socially and economically disadvantaged include women, Blacks, Hispanics, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. The Engineer shall submit information concerning the DBEs that will participate. The information will include the name and address of each DBE and a description of the work to be performed by each named firm. If the Engineer fails to achieve each year's aspirational goal, it will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so. Failure to meet these requirements will be considered a material breach of this Master Agreement. All DBEs must be certified as such by the City.

Section 33.2 DOT Policy. It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.

Section 33.3 DBE Obligations. The Engineer agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of Master Agreement and related Work Orders and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform Master Agreements. Engineer

shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted Master Agreements.

Section 33.4 Contract Assurance. The Engineer or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Master Agreement. The Engineer shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the Engineer to carry out these requirements is a material breach of this Master Agreement, which may result in the termination of this Master Agreement or such other remedy as the City deems appropriate.

Section 33.5 Prompt Payment (§26.29) - The Engineer agrees to pay each subcontractor under this Master Agreement for satisfactory performance of its contract in the time established by the Florida Prompt Payment Act from the receipt of each payment the Engineer receives from City. The Engineer agrees further to return retainage payments to each subcontractor in accordance with Florida Statute after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

#### **Article 34- General Civil Rights Provisions**

Section 34.1 The Engineer agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

Section 34.2 This provision binds the Engineer and sub-tier contractors through the completion of the Master Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **Article 35 - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

Section 35.1 Engineer certifies by acceptance of this Master Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that by signing this Master Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offerer/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to the applicable solicitation or proposal.

Section 35.2 The Engineer, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under a Work Order is not presently debarred or otherwise disqualified from participation in a federally assisted project. The Engineer will accomplish this by:

- a. Checking the System for Award Management at website: <http://www.sam.gov>

- b. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- c. Inserting a clause or condition in the covered transaction with the lower tier contract

Section 35.3 If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

### **Article 36 - Certification Regarding Foreign Trade Restrictions**

Section 36.1 The Engineer and each subcontractor for work under a Work Order, by execution of this Master Agreement, a contract or a subcontract, certifies that it:

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

Section 36.2 This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Section 36.3 The Engineer must provide immediate written notice to the City if the Engineer learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Engineer must require subcontractors provide immediate written notice to the Engineer if at any time it learns that its certification was erroneous by reason of changed circumstances.

Section 36.4 Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract or Work Order shall be awarded to an contractor or subcontractor:

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

Section 36.5 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The

knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Section 36.6 The Engineer agrees that, if awarded a Work Order resulting from this Master Agreement, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Engineer may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless it has knowledge that the certification is erroneous.

Section 36.7 This certification is a material representation of fact upon which reliance was placed when making an award of this Master Agreement and each Work Order hereunder. If it is later determined that the Engineer or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the City cancellation of the Master Agreement, any Work Order or subcontract for default at no cost to the City or the FAA.

### **Article 37 - Veterans Preference**

Section 37.1 In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

### **Article 38 - Rights to Inventions**

Section 38.1 All rights to inventions and materials generated under this Master Agreement and Work Orders hereunder are subject to regulation issued by the FAA and the City as the sponsor of the Federal grant under which this Master Agreement and such Work Orders are or may be executed. Information regarding these rights is available from the FAA.

### **Article 39 - Lobbying and Influencing Federal Employees**

Section 39.1 The Engineer certifies by signing this Master Agreement or Work Orders, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Engineer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this

Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Section 39.2 The Engineer shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

#### **Article 40 – Energy Conservation Requirements**

Section 40.1 Engineer and its subcontractors agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201et seq).

#### **Article 41 – Fair Labor Standards Act**

Section 41.1 All contracts and subcontracts entered into by Engineer under this Master Agreement must incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

Section 41.2 The Engineer has full responsibility to monitor compliance to the referenced statute or regulation. The Engineer must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

#### **Article 42 – Occupational Safety and Health Act of 1970**

Section 42.1 All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **Article 43 – Distracted Driving**

Section 43.1 In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

Section 43.2 In support of this initiative, the City encourages the Engineer to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers,

including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Engineer must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

#### **Article 44 – Breach of Agreement Terms**

Section 44.1 Any violation or breach of terms of this Master Agreement or any Work Order on the part of the Engineer or its subcontractors may result in the suspension or termination of this Master Agreement or Work Order or such other action that may be necessary to enforce the rights of the parties of this agreement.

Section 44.2 City will provide Engineer written notice that describes the nature of the breach and corrective actions the Engineer must undertake in order to avoid termination of the Master Agreement or Work Order. City reserves the right to withhold payments to Engineer until such time the Engineer corrects the breach or the City elects to terminate the Master Agreement or Work Order. The City's notice will identify a specific date by which the Engineer must correct the breach. City may proceed with termination of the Master Agreement or Work Order if the Engineer fails to correct the breach by deadline indicated in the City's notice.

Section 44.3 The duties and obligations imposed by the Master Agreement and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

#### **Article 45 – Clean Air and Water Pollution Control**

Section 45.1 Engineer agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Engineer agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Section 45.2 Engineer must include this requirement in all subcontracts that exceeds \$150,000.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Master Agreement to be executed in duplicate and sealed as of the day and year first above written.

**CITY OF PENSACOLA**  
a Florida municipal corporation

By: \_\_\_\_\_  
Ashton J. Hayward, Mayor

(AFFIX CITY SEAL)

Attest:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

Legal in form and valid as drawn:

Approved as to content:

\_\_\_\_\_  
Lysia H. Bowling, City Attorney

\_\_\_\_\_  
Daniel E. Flynn, Airport Director

**ENGINEER:**

SEAL

Attest:  
\_\_\_\_\_  
Corporate Secretary

Printed Name: \_\_\_\_\_  
Title: President

**EXHIBIT "A"**

**SAMPLE WORK ORDER**



Work Order No. \_\_\_\_\_

**WORK ORDER FOR ARCHITECTURAL AND/OR ENGINEERING SERVICES FOR  
AIRPORT IMPROVEMENTS AT  
PENSACOLA INTERNATIONAL AIRPORT**

**WORK ORDER NO. \_\_\_\_ for [NAME OF PROJECT]**

In accordance with this Work Order No. \_\_, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the undersigned Engineer agrees to perform and complete the following services, in accordance with the terms and conditions of this Work Order and with the terms and conditions of that certain **Master Agreement for Architectural and Engineering Services for Airport Improvements at Pensacola International Airport** dated \_\_\_\_\_, 2017, all of which terms and conditions are hereby incorporated herein by reference:

**Project Location:** Pensacola International Airport

**Project Description:** *Brief Project Description*

**Scope of Basic Services:** *Brief Project Scope Description* as more particularly described in Attachment A – Scope of Work (Basic Services) attached hereto and incorporated herein by reference. [Note: Include in Attachment A the Basic Services provided in the Master Agreement that are **not** to be included in this Work Order.]

**Scope of Special Services:** *Brief Special Services Description* as more particularly described in Attachment B – Special Services attached hereto and incorporated herein by reference.

**Airport Project Coordinator:** *Name and contact info for Airport’s Project Coordinator*

**Engineer Project Manager:** *Name and contact info for Engineer’s Project Manager*

**Basic Services Compensation:** \$ \_\_\_\_\_ as more particularly described in Attachment C – Basic Services Compensation attached hereto and incorporated herein by reference.

**Special Services Compensation:** \$ \_\_\_\_\_ as more particularly described in Attachment C – Special Services Compensation attached hereto and incorporated herein by reference.

**Total Compensation and Method of Payment:** Specify Lump Sum or Not-to-Exceed \$ \_\_\_\_\_ as more particularly described in Attachment C – Project Costs attached hereto and incorporated herein by reference.

**Schedule and Deliverables:** *Brief Description of Schedule and Deliverables* as more particularly described in Attachment D – Schedule and Deliverables attached hereto and incorporated herein by reference.

**Meetings:** *Number of Scoped Meetings* as more particularly described in Attachment E – Meeting attached hereto and incorporated by reference.

**Modification of Terms of Master Agreement Applicable to this Work Order:** See Attachment F attached hereto and incorporated herein by reference.

**Special Terms and Conditions:** See Attachment G attached hereto and incorporated herein by reference.

Dated and effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:

**City of Pensacola,**  
a Florida municipal corporation

\_\_\_\_\_  
Ericka Burnett, City Clerk

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor

Engineer:

SEAL

Attest:  
\_\_\_\_\_  
Corporate Secretary

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: President

**Legal In Form and Valid As Drawn:**

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

**Approved As To Content:**

\_\_\_\_\_  
Airport Director

SAMPLE ATTACHMENT C to Work Order – PROJECT COST BREAKDOWN

Scope/Task	Project Manager	Project Director	Project Eng.	Junior Eng.	Senior Tech.	Junior Tech.	Admin. Asst.	Total
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NAME OF PHASE

Task 1.1 (hrs/wk)	_____	_____	_____	_____	_____	_____	_____	_____
Individual element (as needed)	_____	_____	_____	_____	_____	_____	_____	_____
Task 1.2	_____	_____	_____	_____	_____	_____	_____	_____
Individual element (as needed)	_____	_____	_____	_____	_____	_____	_____	_____
Etc...	_____	_____	_____	_____	_____	_____	_____	_____
Total Hours	_____	_____	_____	_____	_____	_____	_____	_____

Total Direct Labor \$ \_\_\_\_\_  
 Overhead @ \_\_\_\_\_%  
 Profit @ \_\_\_\_\_%

Total Burdened Labor \$ \_\_\_\_\_

OTHER DIRECT NON-SALARY COSTS

Reproduction \_\_\_\_\_  
 Postage/Delivery \_\_\_\_\_  
 Telephone \_\_\_\_\_

Specialty Subcontractors  
 Name of Subcontractor \_\_\_\_\_  
 Direct Cost \$ \_\_\_\_\_

Total Subcontractor Cost \$ \_\_\_\_\_

Travel

Est. # People	Est. # Days	Est. Airfare	Est. Car	Est. Lodging	Per Diem	Total
_____	_____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Total Other Direct Non-Salary Costs \$ \_\_\_\_\_

TOTAL FEE \$ \_\_\_\_\_

**EXHIBIT "B"**  
**COMPENSATION SCHEDULE**

**GENERAL**

The project costs detailed in each Work Order shall be based on the compensation schedule as follows:

1. For work performed by Engineer's employees, Engineer shall be compensated for the hours worked by each employee at the rates shown herein.
2. For work performed by Engineer's subcontractors, Engineer shall be compensated at the rate of the subcontractor's invoice without any mark-up or multiplier. The City shall not compensate Engineer for any subcontractor work not approved in advance and in writing by the City.
3. For direct expenses incurred by Engineer in the performance of the Work Order, it shall be compensated at the rate of the actual costs of the direct expenses without any mark-up or multiplier. Direct expenses may include, as applicable:
  - a. Field office if required, including telephone, furniture, equipment and supplies. All furniture, equipment, and supplies purchased for the Work Order and not consumed in the performance of the Work Order shall be turned over to the City at the conclusion of the Work Order.
  - b. Project related telephone calls and telegrams.
  - c. Third party handling, shipping, mailing and reproduction of contract related materials (excluding large-scale printing of contract documents for bidding or contractor use after award).
  - d. Local area transportation expenses when traveling in conjunction with the Agreement.

The City shall not compensate Engineer for any direct expenses not approved in advance and in writing.

The City shall not be liable for any cost exceeding or different from those costs identified above.

**SCHEDULE OF RATES (Month) 20 – (Month) 20**

The following schedule of rates indicates the range of compensation by category.

Not-to-Exceed Work Orders: The actual individual direct labor charges times overhead and profit multipliers shall be used to compute the actual compensation for each not-to-exceed Work Orders prepared under the Master Agreement.

Lump Sum Work Orders: The average rate by category from the billing rates table provided below will be used to calculate the estimated cost of services to arrive at an agreed to lump sum fee.

1. Direct Salary Costs

Classification	Direct Salary Costs Range	Direct Salary Costs Average	Overhead Costs @ ____%	Fixed Payment @ ____%	Total Average Hourly Rates
Project Principal	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Project Manager	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Project Director	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Project Engineer	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Junior Engineer	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Senior Technician	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Junior Technician	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Admin Asst.	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____

2. LABOR AND GENERAL AND ADMINISTRATIVE OVERHEAD

Percent of Direct Salary \_\_\_\_\_%

3. FIXED PAYMENT FOR PROFIT

Percent of Direct Salary and Overhead  
Costs of the Consultant \_\_\_\_\_%

**EXHIBIT "C"**

On File with City Purchasing Department