Rhode Island Airport Corporation

**August 16, 2016**

**REQUEST FOR PROPOSALS**

**ON-CALL FENCING AND GATE MATERIALS AND SERVICES**

**CONTRACT NO. 26533**

**APPROVED:**

Guy DeCristofaro

Guy DeCristofaro
Manager of Airfield Maintenance

**APPROVED:**

Carla M Ottaviano

Carla M. Ottaviano
Financial Analyst and Administrator

## INTRODUCTION

The Rhode Island Airport Corporation (RIAC) is seeking proposals from qualified firms for the purchase of material and/or repairs to chain link fences, gates and gate operators for T. F. Green Airport and the five (5) General Aviation Airports located in Rhode Island. RIAC may choose to select more than one qualified firm for the required services at its sole discretion.

## REQUEST FOR PROPOSALS REQUIREMENTS

RIAC **requires** respondents to use a minimum 12-point font size and keep the proposal to a **maximum** of ten (10) 8 ½ x 11 double sided pages, excluding:

- Table of Contents, and
- Dividers, and
- Cover Letter (one page, single sided), and
- Resumes (each one page, double sided).

Proposing firm shall submit one electronic (thumb drive only accepted) and four printed copies of the proposal to:

Office of Procurement
Rhode Island Airport Corporation
T. F. Green Airport
2000 Post Road
Warwick, RI 02886-1533

**Attn: On-Call Fence & Gate Materials and Repairs – Contract No. 26533**

The proposal must be submitted no later **than 2:00 p.m., September 13, 2016, EDT**. Late submissions will **not** be accepted. All Proposals will be time-stamped upon receipt and any proposals received after the time specified above will be returned unopened.

In order to control the dissemination of information regarding this RFP, organizations interested in submitting proposals shall not make personal contact with any member of the RIAC staff. Questions concerning this Request for Proposals (RFP) should be directed, via email, to procurement@pvdairport.com no later than **1:00 p.m. (EDT), August 24, 2016**. RIAC will respond to all relevant questions no later than end of day **August 26, 2016** via addendum. This addendum will be posted to RIAC's website (www.pvdairport.com/corporate/procurement) and to the State of Rhode Island's Division of Purchasing website (www.purchasing.ri.gov/).

RIAC accepts no financial responsibility for any costs incurred by a proposer in either responding to this RFP, or in participating in oral presentations or in any meetings with RIAC. The proposals in response to this RFP become the property of RIAC and may be used by RIAC in any way it deems appropriate. By submitting a proposal, the firm certifies that it has fully read and understands the RFP, has full knowledge of the Scope

of Work to be provided, and accepts the terms and conditions under which the services are to be performed.

RIAC reserves the right to interview some, all or none of the firms responding to this RFP based solely on its judgment as to the firm(s) proposals and capabilities. RIAC reserves the right to select firms directly from the proposals received without the use of an interview process. RIAC reserves the right to reject any and all submittals, to request and consider additional information from submitters, and to reject any and all submittals on any basis without disclosing the reason. No firm may withdraw their submittal for at least ninety (90) days after the time and date set for submission.

RIAC reserves the right to waive any irregularities and technical defects. RIAC reserves the right to modify, amend or waive any provisions of this RFP, prior to the issuance of a Professional Services Agreement (PSA) for the consulting services.

Procedures respecting submittals and the selection of a firm shall be in conformity with Title 37, Chapter 2 of the General Laws of the State of Rhode Island, and standard RIAC procurement rules.

The term of the Professional Services Agreement (PSA) will be for one year with two, one-year renewals at the sole discretion of RIAC.

## SCOPE

While this is an on-call contract, typical examples of services that may be required under this contract include:

- Fabricating, delivery and install of vehicle gate(s) for opening of up to 24 feet. Electric gate operators installed.
- Purchase of 9-gauge chain-link fence, usually 8’ high and associated hardware.
- Purchase of schedule 40 Galvanized line poles, end poles and top rails.

Each firm must possess the necessary facilities, ability, and financial resources to furnish the purchase of material and/or repairs to chain link fences, gates and gate operators specified herein in a satisfactory manner.

### Unsatisfactory Work

If any of the work done, or material or equipment provided, by the contractor is unsatisfactory to RIAC, the contractor shall, upon being notified by RIAC, immediately remove at the contractor's expense such unsatisfactory work or material or equipment and replace the same with work or material or equipment satisfactory to RIAC. In the event the contractor fails within fifteen (15) days after receipt of written notice to remove improper or unsuitable work or material or equipment and replace it with suitable and satisfactory work or material or equipment, RIAC shall have the right, but not the obligation, to remove the rejected work or material or equipment and replace it with proper work or material or equipment at the expense of the Contractor. This paragraph

applies during the contract term and during any warranty or guarantee period. RIAC shall be entitled to offset such expense against any sums owed by RIAC to the contractor under this contract.

Failure to Deliver
In case of failure to deliver goods or services in accordance with the contract terms and conditions, RIAC, after due oral or written notice, may procure the goods or services from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs; provided, that if public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefor shall be made at a reduction in price to be determined solely by RIAC. This remedy shall be in addition to any other remedies, which RIAC may have. RIAC shall be entitled to offset such costs against any sums owed by RIAC to the contractor.

## SUBMITTAL CRITERIA

The RFP will include the following elements (in the order provided below), to assist RIAC in the evaluation:

1. **Table of Contents and Cover Letter**
   In cover letter please provide:
   a. Firm name, address, contact name, title, phone number and email address

2. **Project Understanding**
   In a narrative format, please provide:
   a. Firm's general understanding of the scope of work and requirements as broadly outlined in this RFP; and
   b. Include:
      i. Statement of anticipated response time and availability to deal with emergency and general repairs; and
      ii. proposed maintenance schedule; and
      iii. dedicated/supplementary manpower and equipment maintenance methods; and
      iv. any potential challenges and/or special concerns that may be encountered.

3. **Fee Structure**
   Services may be required on a twenty-four hour "on-call" basis and as required. Only fixed hourly flat rates will be allowed as quoted, and will include administrative and general expenses, including profit allowance, overhead, travel, transportation, etc.

   Payment of the general prevailing rate of per diem wages and the general prevailing rate for regular, overtime, and other working conditions existing in the locality for each craft, mechanic, teamster, or type of workman

needed to execute this work is a requirement for both contractors and sub-contractors. The prevailing wage table may be obtained at the RI Division of Purchases home page by internet at: www.purchasing.state.ri.us.

No charges other than parts and labor on the job will be permitted, no travel, mileage, miscellaneous charges or portal to portal will be allowed.

Firms are advised that the award will be based on regular, straight time hourly rates. Overtime rates, discounts, and other miscellaneous price-related items are required for informational purposes only. Overtime rates exceeding one and one-half times the regular hourly rates for Monday through Saturday and exceeding two-times the regular hourly rate for Sundays and holidays will not be accepted.

**4. Qualifications of Firm**

The successful firm must have a minimum of three (3) years' experience in fencing and gate installation and repairs. Firms must indicate they have the necessary facilities, ability, and financial resources to furnish the service or material specified herein in a satisfactory manner.

a. Client References

The firm must show a minimum of five client references (three non-RIAC), that indicate the firm's reputation for personal and professional integrity and competence. Project sheets shall be up to one page, single-sided per project and shall identify up to five projects in total, and completed by the firm and/or subcontractor in the last five years. Each project sheet shall include:

- Project name to include owner's name and address (agency, company, etc.), and assigned owner's project managers name, phone number and email address;
- Listing of proposed key personnel that worked on the project and their respective roles;
- Firm(s) role in the project (prime or subcontractor).

b. Permitting

The Firm must be a licensed contractor in the State of Rhode Island. The firm is responsible to comply with all licensing or state permits required for services performed. A copy of all licenses/permits should be included in the proposal. In addition to these license requirements, the firm, by submission of this proposal, certifies that any/all work related to this proposal, and any subsequent award which requires a Rhode Island License, shall be performed by an individual holding a valid Rhode Island License.

**5. Resumes of Proposed Key Staff**

Provide a one-page, double-sided resume for the Project Manager, and up to three (3) resumes, each only one page, double sided, for key staff (total

of four (4) people), including applicable professional licenses and/or accreditations, qualifications and relevant experience. Only list proposed key staff that will be committed to this assignment for the duration.

## EVALUATION CRITERIA

Proposals will be evaluated by a Selection Committee. They will be seeking to distinguish which firm, using the Submittal Criteria, has the best abilities to perform the required services outlined by RIAC. While some criteria may be weighted higher than others, the proposal that achieves the highest overall score will be considered top-ranked by the Selection Committee. The proposals will be evaluated using the following criteria:

1. Reflects understanding of the nature of the Scope of Work
    - Proposed Maintenance Schedule
    - Dedicated Manpower/Supplemental and Equipment Maintenance Methods
2. Fee Structure including overall hourly rate for labor and equipment.
3. Firm Qualifications including financial strength and stability, client references, project sheets, permitting, and qualifications of key staff.
4. Statement of anticipated response time and availability to deal with emergency and general repairs.
5. Other factors that distinguishes your firm from your competitors.

## INSURANCE REQUIREMENTS

Evidence of the following minimum insurance coverage must be confirmed either in writing as part of the proposal or as evidenced by a certificate of insurance:

a. General Liability limits of $1 million per occurrence.

b. Motor Vehicle Liability Insurance with limits of $1 million.

c. Worker's Compensation coverage to Rhode Island statutory limits or documentation evidencing an approved self-insurance program.

d. Umbrella Liability limits of $10 million excess of $1 million primary layer for airfield services, otherwise $5 million.

e. Errors and Omissions Coverage with minimum limits of $1 million per occurrence.

RIAC and the State of Rhode Island shall be named as additional insured on all policies of insurance with the exception of the Errors and Omission (Professional Liability) and Worker's Compensation insurance.

## DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

In accordance with Title 49, CFR.26, it is RIAC's policy to provide DBEs the opportunity to compete and/or participate in the performance of RIAC contracts. A DBE participation goal will be determined on a Task Order basis and consistent with the current DBE goal on file with the FAA. The selected firm(s) will, as necessary, complete DBE reporting requirements.

## STANDARD PROFESSIONAL SERVICE AGREEMENT

RIAC's standard PSA is attached hereto and incorporated herein by this reference. RIAC expects the proposer to execute this form of PSA upon contract award. Any exceptions to the terms of the PSA **must** be noted on the form provided. RIAC reserves the right to accept, reject or modify any exceptions noted.

## ADDITIONAL REQUIREMENTS

Campaign Finance Compliance

Every person or business entity providing goods or services at a cost of $5,000 cumulated value is required to file an affidavit regarding political campaign contributions with the RI State Board of Elections even if no reportable contributions have been made (RI General Law 17-27). Forms may be obtained at Board of Elections, Campaign Finance Division, 50 Branch Avenue, Providence, RI 02904, (401-222-2056).

Major State Decision-Maker

Does any Rhode Island "Major State Decision-Maker", as defined below, or the spouse or dependent child of such person, hold (i) a ten percent or greater equity interest, or (ii) a $5,000 or greater cash interest in this business?

For purposes of this question, "Major State Decision-Maker" means:

(i) All general officers; and all executive or administrative head or heads of any state executive agency enumerated in R.I.G.L § 42-6-1 as well as the executive or administrative head or heads of state quasi-public corporations, whether appointed or serving as an employee. The phrase "executive or administrative head or heads" shall include anyone serving in the positions of president, senior vice president, general counsel, director, executive director, deputy director, assistant director, executive counsel or chief of staff;

(ii) All members of the general assembly and the executive or administrative head or heads of a state legislative agency, whether appointed or serving as an employee. The phrase "executive or administrative head or heads" shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel or chief of staff; and,

(iii) All members of the state judiciary and all state magistrates and the executive or administrative head or heads of a state judicial agency, whether appointed or serving as an employee. The phrase "executive or administrative head or heads" shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel, chief of staff or state court administrator.

If your answer is “Yes”, please identify the Major State Decision-Maker, specify the nature of their ownership interest, and provide a copy of the annual financial disclosure required to be filed with the Rhode Island Ethics Commission pursuant to R.I.G.L. §36-14-16, 17 and 18.

**- END OF RFP -**

## Exceptions to Professional Services Agreement

I, _____, _____, of _____
(Name) (Title) (Company)

certify that I have no exceptions to the Professional Services Agreement as presented for work associated with ***(RFP No. 26533 – On-Call Fencing & Gate Materials and Services)***

_____ _____
SIGNATURE OF PROPOSER DATE

**OR**

I, _____, _____, of _____
(Name) (Title) (Company)

request the following exceptions to the Professional Services Agreement as presented for work associated with ***(RFP No. 26533 – On-Call Fencing & Gate Materials and Services)***

_____

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_____ _____
SIGNATURE OF PROPOSER DATE

**PROFESSIONAL SERVICES AGREEMENT**
**For**
**ON CALL FENCE AND GATE MATERIALS AND SERVICE**

**Contract No. 26533**

PROFESSIONAL SERVICES AGREEMENT (hereinafter referred to as the "AGREEMENT"), entered into as of **October 1, 2016** by and between **(ENTER CONSULTANT NAME AND ADDRESS)**, (hereinafter referred to as "CONSULTANT") and the Rhode Island Airport Corporation (hereinafter referred to as "RIAC"),

**WITNESSETH THAT:**

WHEREAS, RIAC has a need for **professional services associated with On-Call Fence and Gate Materials and Service and related services** ("SERVICES") for T.F. Green, North Central, Quonset, Westerly, Newport and Block Island airports (hereinafter referred to as the "AIRPORTS");

WHEREAS, RIAC has the authority to contract for such professional SERVICES; and

WHEREAS, CONSULTANT represents that it is experienced and has the authority to enter into agreement and capability to perform such SERVICES;

NOW THEREFORE, the parties do mutually agree as follows:

**1. ENGAGEMENT OF CONSULTANT**

RIAC hereby engages CONSULTANT and CONSULTANT hereby agrees to do, perform and carry out the SERVICES in accordance with this AGREEMENT upon RIAC providing written authorization to proceed. The term of this Agreement shall be for **one year with two (2) subsequent one-year terms at RIAC's sole discretion.**

**2. TASK ORDERS AND SCOPE OF SERVICES**

Task Orders, in the general form shown on Exhibit "A", shall be used to describe the parties' mutual agreement on the scope of services, schedule, compensation and any other particulars ("Task Orders"). Task Orders are binding only after acceptance and execution by duly authorized representatives of both parties. Each Task Order shall govern the parties' rights and obligations with respect to each assignment, but all within the framework of this

AGREEMENT. In the event of an inconsistency between the terms of any Task Order and the terms of this AGREEMENT, the terms of this AGREEMENT shall govern.

**3. RIAC'S RESPONSIBILITY**

RIAC shall perform and provide the CONSULTANT with the following in a timely manner: (i) all available information in its possession pertinent to the SERVICES, including previous reports, drawings, specifications or any other data as may be reasonably required by CONSULTANT to perform the SERVICES; (ii) written notice whenever RIAC becomes aware of any information that affects the scope or timing of CONSULTANT'S SERVICES, or any defect in the CONSULTANT SERVICES; and (iii) access to all public and private property as necessary for the performance of the work to be undertaken by CONSULTANT pursuant to the SERVICES, and any Task Order issued pursuant thereto.

**4. CHANGES/AMENDMENT**

Except as provided in Section 32, below, no changes or amendments to this AGREEMENT or any Task Order shall be effective unless agreed to in writing by both RIAC and CONSULTANT. No restrictions, promises, warranties, covenants or undertakings shall exist other than those expressly set forth in the AGREEMENT or any duly executed Task Order.

**5. STANDARD OF CARE/WARRANTIES**

CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the SERVICES as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. CONSULTANT warrants that: (i) it has the authority and right to enter into this AGREEMENT and any Task Order, to perform services and provide materials, information and deliverables hereunder, and that its obligations hereunder are not in conflict with any other CONSULTANT obligation; (ii) each of its employees has the proper skill, training and background necessary to accomplish their assigned tasks; (iii) all services will be performed in a competent and professional manner, by qualified personnel authorized, as necessary under applicable State and Federal laws to perform the work necessary to complete the SERVICES, and will conform to RIAC's requirements hereunder and all applicable State and Federal laws; (iv) neither any deliverables, information, or materials, nor the performance of any services by

CONSULTANT will infringe upon or violate the rights of any third party and RIAC shall receive free and clear title to all works, materials, information and deliverables prepared and/or developed in connection with this AGREEMENT; and (v) RIAC shall have the right to use for its own purposes, any ideas, methods, techniques, materials and information provided to or otherwise obtained by RIAC as a result of this AGREEMENT, without restriction, liability or obligation, except as may be specified herein.

**6. INSURANCE**

CONSULTANT shall maintain the insurance coverages specified on Exhibit "C" during the term of this AGREEMENT.

**7. SUBCONSULTANTS**

(a) Without limiting the ability of CONSULTANT to hire subconsultants or subcontractors in accordance with this AGREEMENT, RIAC shall have the right to require CONSULTANT to engage subconsultants or subcontractors (reasonably acceptable to CONSULTANT) to perform any of the work required for the successful completion of the SERVICES or any Task Order under this AGREEMENT.

(b) In the event that CONSULTANT proposes to engage a subconsultant or subcontractor to perform work required pursuant to any Task Order, such Task Order shall include the name of each subconsultant or subcontractor performing the task and a detailed description of the work to be performed by each subconsultant or subcontractor. Reference to any subconsultant or subcontractor in an approved Task Order executed in accordance with this AGREEMENT shall be deemed written approval by RIAC of the subconsultant or subcontractor, but only insofar as and to the extent that the work to be performed by the subconsultant or subcontractor is described in such Task Order.

(c) Except as authorized above, none of the services to be provided by CONSULTANT pursuant to this AGREEMENT shall be subcontracted or delegated, in whole or in part, to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of RIAC, such approval to be at RIAC's sole discretion.

(d) CONSULTANT shall enter into a written agreement with each such subcontractor or subconsultant pursuant to which each such subcontractor or subconsultant agrees to be bound by the terms and conditions of this AGREEMENT. RIAC shall have right to obtain a copy of any proposed subcontract upon request.

**8. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

RIAC fully supports the employment of disadvantaged business enterprises. The applicable contractual requirements are set forth in Exhibit E and fully incorporated herein by this reference.

**9. INDEMNIFICATION**

(a) To the fullest extent permitted by law, CONSULTANT agrees to defend, indemnify and hold RIAC, the state of Rhode Island, and/or their respective current and former agents, officers, officials, directors, and, employees harmless from and against legal liability for all claims, demands, causes of action, judgments, losses, damages, and expenses, including, without limitation, attorneys' fees and court costs and expenses to the extent such claims, demands, causes of action, judgments, losses, damages, or expenses including without limitation, attorneys' fees and court costs and expenses are caused by (or in the case of the duty to defend are alleged to be caused by) (i) failure of the CONSULTANT, or the CONSULTANT's officers, employees, agents, representatives, subconsultants, or subcontractors to properly perform SERVICES, or (ii) the negligent or willfully tortious or unlawful acts, errors or omissions of CONSULTANT, CONSULTANT's officers, employees, agents, representatives, subconsultants, or subcontractors.

(b) The CONSULTANT's indemnity and defense obligation under Section 9(a) shall supersede any provision contained herein or elsewhere to the contrary, and shall survive expiration or earlier termination of this AGREEMENT for a period equal to the statute of limitations for any action which could be brought against RIAC, the state of Rhode Island or their respective agents, officers, directors and employees and shall continue through the duration of any such action brought during the applicable time periods.

(c) In claims against any person or entity indemnified under this Section 9 by an employee of the CONSULTANT or its subcontractor, subconsultant, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 9 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the CONSULTANT, a subcontractor or a subconsultant under workers' compensation acts, disability benefit acts or other employee benefit acts.

**10. WAIVER OF DAMAGES**

Notwithstanding any other provision of this AGREEMENT, to the fullest extent permitted by law, neither RIAC nor the state of Rhode Island, nor their respective agents, parent or subsidiary corporations, affiliates, shareholders, investors, directors, officers, employees, representatives, attorneys or agents shall be liable, whether in contract, tort, negligence, strict liability or otherwise, for any lost or prospective profits or any other special, punitive, exemplary, indirect, incidental or consequential losses or damages arising out of or in connection with this AGREEMENT, or termination thereof, or any failure of performance related hereto, howsoever caused, whether arising from such person's sole, joint or concurrent negligence.

**11. DISPUTE RESOLUTION**

(a) In the event of a dispute between RIAC and CONSULTANT arising out of or related to this AGREEMENT or any Task Order issued hereunder, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute within fifteen (15) calendar days of notice, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

(b) Should such negotiation or mediation fail to resolve the dispute within an additional fifteen (15) calendar day period, RIAC, in its sole discretion, thereafter, shall select either binding arbitration in accordance with the Arbitration Rules of the American Arbitration Association, or State or Federal court seated in Rhode Island and having jurisdiction over such matter, as the next forum for dispute resolution. In the event

that CONSULTANT is the party continuing to press a dispute not resolved in accordance with Section 11(a), RIAC shall make the foregoing forum determination within ten (10) business days of a written request from CONSULTANT. CONSULTANT consents to the personal jurisdiction of State or Federal courts seated in Rhode Island.

(c) The provision of Section 11 shall survive expiration or earlier termination of this AGREEMENT.

**12. DOCUMENTS PROPERTY OF RIAC**

All documents, data, plans, reports and other materials prepared by CONSULTANT under this AGREEMENT shall become the property of RIAC and, at RIAC's option, shall be provided to RIAC in the electronic medium specified by RIAC (provided CONSULTANT has such capability); provided, however, that CONSULTANT shall have the right to retain copies of such documents and other materials for its records.

**13. DATA TO BE FURNISHED TO CONSULTANT**

All data, reports, records, plans, maps and other information as are available, in RIAC's custody, and necessary to carry out the SERVICES under this AGREEMENT shall be furnished to CONSULTANT, without charge by RIAC, in a timely manner. RIAC shall coordinate with and assist CONSULTANT in obtaining all other information necessary to carry out the SERVICES.

**14. COORDINATION BETWEEN RIAC AND CONSULTANT**

(a) Continuing coordination and communication shall be maintained between CONSULTANT and RIAC to ensure the timely completion of the SERVICES. To expedite such coordination and communications, RIAC shall designate a staff member as its representative to whom CONSULTANT shall direct all correspondence, progress reports, requests for information or assistance and other materials.

(b) The CONSULTANT's designee, identified on the applicable Task Order, shall serve as the representative of CONSULTANT for the SERVICES and he/she or another

CONSULTANT staff member acceptable to RIAC shall attend all meetings upon the reasonable request of RIAC.

**15. PERSONNEL**

CONSULTANT represents that it has, or will obtain at its sole cost and expense, all personnel required to perform the SERVICES required under this AGREEMENT and all Task Orders issued hereunder. Any and all persons engaged by CONSULTANT to perform the SERVICES shall be considered employees of CONSULTANT, not RIAC. Any of CONSULTANT's personnel or those of its subcontractors or subconsultants, specifically identified in a Task Order are considered essential to performance and may not be removed or replaced without the prior approval of RIAC. All personnel employed or engaged by CONSULTANT shall possess the necessary skills for performance under this AGREEMENT. CONSULTANT will at all times enforce proper discipline and good order among the personnel under its control or supervision.

**16. TIME IS OF THE ESSENCE**

The parties hereto agree that time is of the essence with respect to any deadline or schedule set forth in this AGREEMENT or any Task Order

**17. COMPENSATION**

RIAC agrees to pay CONSULTANT an amount in accordance with the Fee Arrangements set forth on Exhibit "D" and each Task Order.

**18. METHOD OF PAYMENT**

(a) The specific method of payment for SERVICES to be rendered (i.e., lump sum, time and materials, etc.) shall be as set forth in Exhibit "D" or as separately established by Task Order. RIAC shall pay CONSULTANT in accordance with monthly invoices to be submitted by CONSULTANT. Invoices for time and material type contracts shall cover SERVICES performed during the preceding month and shall be for an amount calculated from the actual number of hours expended on the work by each staff member and the hourly rates specified in Attachment "D-1" to Exhibit "D". Invoices for lump sum type contracts shall be based on percent complete of total project.

(b) Out-of-pocket (direct) expenses shall be listed separately on any invoice and shall be in compliance with Attachment "D-2" to Exhibit "D".

(c) Subcontractors are to be considered as a direct expense when invoicing. No consultant mark-up will be allowed for subcontractor services.

(d) From the total of the amount determined by RIAC to be payable on an invoice, CONSULTANT shall deduct a pre-determined percentage as set forth in Exhibit "D", to be held as retainage and paid by RIAC upon completion of the Project.

(e) RIAC shall pay CONSULTANT invoiced amounts within thirty (30) days after the date RIAC deems said invoice to represent a true and accurate detail of work performed and expenses. Invoices are due on the 10th of the month or the next business day should the 10th of the month fall on a weekend or State of Rhode Island recognized holiday. Invoices shall be accompanied by supporting documentation as required by RIAC.

**19. TERMINATION OF AGREEMENT FOR CAUSE OR RIAC'S CONVENIENCE**

(a) This AGREEMENT may be terminated by either party upon written notice in the event of default under this AGREEMENT by the other party; provided, however, the non-performing party shall have fourteen (14) calendar days from the receipt of the termination notice to cure such default or to submit a plan for curing such default that is acceptable to the other party.

(b) RIAC may terminate or suspend performance of this AGREEMENT for RIAC's convenience upon written notice to CONSULTANT. CONSULTANT shall terminate or suspend performance of the SERVICES on a schedule acceptable to RIAC, and RIAC shall pay CONSULTANT for SERVICES performed.

(c) The provisions of this Article shall also apply to each individual Task Order, separate and apart from any other Task Order, and without terminating or otherwise affecting this AGREEMENT as a whole.

## 20. NOTICES

Except as provided for otherwise herein, all notices, requests, demands and other communications required or permitted pursuant to this AGREEMENT shall be made in writing and shall be deemed to have been duly given if personally delivered or deposited in the United States mail, first class postage prepaid and addressed as follows:

| | |
|---|---|
| To RIAC: | President and CEO<br>Rhode Island Airport Corporation<br>T. F. Green Airport<br>2000 Post Road<br>Warwick, RI 02886 |
| With copy to: | General Counsel<br>Rhode Island Airport Corporation<br>T. F. Green Airport<br>2000 Post Road<br>Warwick, RI 02886 |
| To CONSULTANT: | **(ENTER CONSULTANT NAME)**<br>**(CONTACT NAME/TITLE/ADDRESS)** |

or to such other person or address as either party may specify by notice given as provided herein to the other party.

## 21. FINDINGS CONFIDENTIAL

Except as required by law, CONSULTANT shall not, at any time, divulge to any person any proprietary information or fact relating to the conduct, management or business of RIAC. All information relating to the details of the SERVICES and any other documents, data, plans, reports or other materials provided to or acquired by CONSULTANT in connection with this AGREEMENT shall be treated as confidential and used only in the performance of the services hereunder for the advancement of the interests of RIAC and the SERVICES. Except as required by law, no documents, data, plans, reports or other materials provided to or prepared or assembled by CONSULTANT in connection with this AGREEMENT shall be made available to any other individual or organization by CONSULTANT without prior written approval of RIAC.

## 22. ASSIGNABILITY

This AGREEMENT shall be binding upon and inure to the benefit of the successors, assigns or affiliates of CONSULTANT and RIAC. This AGREEMENT may not be assigned by either party hereto, in whole or in part, without the express written consent of the other party hereto and any attempted assignment in contravention of this provision shall be void and of no effect.

**23. NO THIRD-PARTY RIGHTS**

This AGREEMENT shall not create any right in or benefit to parties other than RIAC and CONSULTANT and their assignees or successors.

**24. NO JOINT VENTURE**

Nothing herein shall be construed to imply a joint venture or principal and agent relationship between RIAC and CONSULTANT, and neither party shall have any right, power, or authority to create any obligation, express or implied, on behalf of the other.

**25. NONDISCRIMINATION**

RIAC does not tolerate the discrimination of any form. The applicable contract requirements for nondiscrimination are set forth in Exhibit E and fully incorporated herein by this reference.

**26. AVAILABILITY OF RECORDS**

CONSULTANT shall keep full, complete, and accurate books and records, showing all of its receipts and expenses pertaining to work related to this contract. Records include, but are not limited to, time and expense records. CONSULTANT shall, at all times, provide and maintain, in a true and accurate manner, and in accordance with General Accepted Accounting Principles ("GAAP"), such accounts, books, records and data as would reasonably be expected to be examined by an independent certified public accountant in performing an audit or examination of CONSULTANT's receipts and expenses in accordance with GAAP and generally accepted auditing standards.

**27. NO WAIVER**

The failure of either party to enforce any time, or for any period of time, the provisions hereof shall not be construed as a waiver of such provisions or of the rights of such party to

enforce each and every provision. No RIAC payment to CONSULTANT for SERVICES performed under this AGREEMENT shall be construed as a waiver of any rights under this AGREEMENT.

**28. APPLICABLE LAWS**

CONSULTANT agrees to perform the SERVICES required hereunder in compliance with each Task Order and all applicable local, State and Federal laws and the rules, regulations, and requirements promulgated by RIAC from time to time.

**29. SEVERABILITY**

If a provision of this AGREEMENT is or becomes illegal, invalid, or unenforceable in any jurisdiction, that will not affect: (a) the legality, validity or enforceability in that jurisdiction of any other provision of this AGREEMENT; or (b) the legality, validity or enforceability in any other jurisdiction of that or any other provision of this AGREEMENT.

**30. GOVERNING LAW**

This AGREEMENT shall be construed in accordance with the substantive and procedural laws of the State of Rhode Island, exclusive of its choice-of-law rules.

**31. AUDITS**

RIAC shall have the right, through its representatives, and at all reasonable times, to inspect, examine, copy, and audit such books and records and all documents related to any work that falls under this contract. The originals of all such records and documents shall be made available to RIAC at the airport during the contract term. CONSULTANT will maintain copies of all records and documents on electronic media, in the form customarily used in the industry, available for RIAC's inspection in printed form, for a period of not less than three (3) years following the latter of final payment for services, or contract completion.

**32. FAA REQUIRED CLAUSE**

RIAC adheres to all applicable FAA contractual and grant requirements. FAA required contract clauses are set forth in Exhibit E and, as applicable, are fully incorporated herein by this reference. Notwithstanding Section 4, above, CONSULTANT agrees that Exhibit E may

be unilaterally amended by RIAC to update the FAA required clauses as necessary for RIAC to comply with its grant assurances and applicable law.

**33. SENSITIVE SECURITY INFORMATION**.

(a) CONSULTANT shall maintain in confidence, and shall cause its Key Employees (as hereinafter defined) to maintain in confidence, (a) all contract documents and information to be developed under this AGREEMENT, and (b) all records, documents, and information provided to CONSULTANT by RIAC for CONSULTANT's preparation of said contract documents and information, that contain and/or constitute Sensitive Security Information ("SSI") as defined by 49 C.F.R. 1520.7, including without limitation, for (a) and (b), above, all data, plans, specifications, sketches, drawings, other renderings, individual personnel records, and all other records, documents and information that contain and/or constitute SSI. CONSULTANT shall restrict access to all such records, documents and information that contain and/or constitute SSI only to those employees of CONSULTANT who require such access to perform the services required under this Agreement (such employees, "Key Employees").

(b) The unauthorized release of SSI is prohibited. All records, documents and information defined by 49 C.F.R. 1520 *et seq.* as SSI, or designated by RIAC as SSI, shall be marked, stored, distributed and destroyed in accordance with 49 C.F.R. 1520 *et seq.* SSI records, documents and information received during the course of this Agreement are the property of RIAC. No part of any such records or documents, or any of the information contained therein, may be photocopied or reproduced in any way except as specifically required or permitted by the terms of this AGREEMENT, or released to any person without the prior written permission of RIAC. Unauthorized possession, photocopying, reproduction, or release of such records and documents, or any portion of their contents, or failure to return them to RIAC immediately upon request, shall constitute a material breach of this AGREEMENT, and may result in immediate termination of this AGREEMENT and/or such other action as deemed

appropriate by RIAC, including but not limited to referral to federal authorities [see 49 C.F.R. 1520.5(d)].

**34. CAMPAIGN FINANCE COMPLIANCE/MAJOR STATE DECISION-MAKER**

CONSULTANT certifies by the execution of this AGREEMENT that it is in full compliance with Rhode Island General Laws Chapter 27 of Title 17 and Chapter 14 of Title 36.

**34. ENTIRETY**

This AGREEMENT together with Exhibits, Task Orders, and attachments hereto, contains the entire agreement between the parties and supersedes any prior or inconsistent agreements, negotiations, representations and promises, written or oral.

**35. CAPTIONS**

The captions contained in this AGREEMENT are for reference only and are in no way to be construed as part of this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be signed and intend to be legally bound hereby.

| | |
|---|---|
| **ATTEST** | **RHODE ISLAND AIRPORT CORPORATION** |
| By _____ | By _____ |
| Title _____ | Title President and CEO_____ |
| Date _____ | Date _____ |
| **ATTEST** | **CONSULTANT NAME** |
| By _____ | By _____ |
| Title _____ | Title _____ |
| Date _____ | Date _____ |

**Exhibit "A"**

**SAMPLE Task Order No. XX**
**ON CALL FENCE AND GATE MATERIALS AND SERVICE**
**For ENTER PROJECT NAME**
**Project CIP No. XXX-XXX (if applicable or delete)**
**AIP No. XXXXXXXXXXX (if applicable or delete)**
**Contract No. 26533; Purchase Order No. XXXXX**

This Task Order is made as of this **_____ (day) of _____, 20__** under the terms and conditions established in the PROFESSIONAL SERVICES AGREEMENT for **professional services associated with On-Call Fence and Gate Materials and Service and related services**, dated **October 1, 2016** (the "AGREEMENT") between the Rhode Island Airport Corporation ("RIAC") and **(ENTER CONSULTANT NAME)** ("CONSULTANT").

**Section A. – SERVICES**

A.1. CONSULTANT shall perform the following services:

**(ENTER DETAILED SCOPE OF SERVICES)**

(Collectively, "SERVICES").

A.2. In conjunction with the performance of the foregoing SERVICES, CONSULTANT shall provide the following submittals/deliverables (documents) to RIAC:

**LIST DELIVERABLES**

**Section B. – Schedule**

CONSULTANT shall perform the SERVICES and deliver the related documents (if any) according to the following schedule:

**LIST MILESTONE DATES FOR SCHEDULE**

**Section C. – Compensation**

C.1. In return for the performance by CONSULTANT of the obligations set forth in this Task Order, RIAC shall pay to CONSULTANT an amount not to exceed $_____, payable according to the following terms:

**ENTER PAYMENT TERMS OR CROSS EXHIBIT D TO AGREEMENT**

**Section D. – Subconsultants**

The following describes the scope, schedule and budget allocated to subcontractors and subconsultants used in performance of this Task Order.

**LIST SUBCONTRACTORS, BUDGET AMOUNTS AND IDENTIFY MBE/DBE/WBE**

| Subcontractor Name | Contract Amount | DBE % | DBE $ |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

The CONSULTANT shall ensure that all of the above-referenced subconsultants agree to carry insurance and to indemnify RIAC on the same terms and conditions as required in the AGREEMENT or any exhibit or schedule thereto.

**Section E. – Proposed Organization**

**LIST NAMES AND TITLES OF PROPOSED STAFF**

**Section F. – RIAC's Responsibilities**

RIAC shall perform and/or provide the following in a timely manner. Unless otherwise provided in this Task Order, RIAC shall bear all costs incident to compliance with the following:

**DEFAULT TO CONTRACT TERMS**

**Section G. – Other Provisions**

The parties agree to the following additional provisions with respect to this specific Task Order:

**ENTER OTHER PROVISIONS**

Except to the extent modified herein, all terms and conditions of the AGREEMENT shall continue in full force and effect.

| **RHODE ISLAND AIRPORT CORP.** | **CONSULTANT NAME** |
|---|---|
| By: _____ | By: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

**Exhibit "C"**

**ON CALL FENCE AND GATE MATERIALS AND SERVICE**
**Contract No. 26533**

## INSURANCE REQUIREMENTS

1. CONSULTANT shall carry and maintain in full force and effect for the duration of this AGREEMENT, any supplements thereto, the insurance specified below. CONSULTANT shall submit to RIAC a certificate of insurance indicating the existence of such coverages prior to contract execution. If such insurance coverages are not maintained and documented by CONSULTANT, RIAC may consider the firm nonresponsive and may terminate this AGREEMENT.

2. The same insurance coverage shall be provided by or on behalf of all subconsultants and subcontractors engaged hereunder.

3. CONSULTANT (and all subconsultants and subcontractors) shall provide and maintain, at its own cost, the following minimum insurance:

   a. General Liability limits of $1,000,000 per occurrence.

   b. Motor Vehicle Liability Insurance with limits of $1,000,000 per occurrence.

   c. Worker's Compensation coverage to Rhode Island statutory limits or documentation evidencing an approved self-insurance program.

   d. Umbrella Liability limits of $10,000,000 excess of $1,000,000 primary layer for airfield construction services, otherwise $5,000,000.

   e. Errors and Omissions coverage with minimum limits of $1,000,000 per occurrence.

4. RIAC and the State of Rhode Island shall be named as additional insured on all policies of insurance with the exception of the Errors and Omission (Professional Liability) and Worker's Compensation insurance.

**Exhibit "D"**

## ON CALL FENCE AND GATE MATERIALS AND SERVICE
## Contract No. 26533

### FEE ARRANGEMENTS

1. **CONSULTANT NAME (“CONSULTANT”)** fee to perform professional services set forth on an approved Task Order in conjunction with the AGREEMENT shall be invoiced on a not-to-exceed, time and materials basis and at the employee’s actual hourly rate, not to exceed the approved billable rates caps (see Attachment “D-1”) used to perform the work, except in the case of a lump sum Task Order. From the total of the amount determined to be payable on an invoice, **two** percent **(2%)** of such total amount will be deducted and retained by RIAC until the final payment is made under said Task Order.

2. Reasonable out-of-pocket expenses for telephone calls, computer services, transportation and subsistence, reproduction of reports, express delivery and other services and materials, to include subconsultant services will be billed at their actual cost, and in compliance with Attachment “D-2”.

3. Prior to initiating any work for SERVICES under this AGREEMENT, CONSULTANT shall submit, in both electronic and hard copy, a proposed written work scope of services, proposed schedule of completion, list of deliverables, and an fee based on the approved billing rates and reimbursables specified in the AGREEMENT, CONSULTANT will only proceed when RIAC provides written notice to do so.

4. Invoices are due on the 10th of the month and shall be accompanied by supporting documentation as required. Invoices shall be addressed to:

**Accounts Payable/Office of Procurement**
Rhode Island Airport Corporation
2000 Post Road
Warwick, RI 02886-1533

ATTACHMENT ‘D-1’

**FEE SUMMARY**

ATTACHMENT 'D-2'

The following has been established as acceptable expenses incurred while conducting RIAC business. It is recognized and anticipated that on certain occasions, circumstances may warrant deviations. In such cases, prior written approval must be obtained by the RIAC.

**Receipts must be submitted for all expenses**. Documentation **MUST** include detailed receipts for all expenses (credit card receipts are **NOT** acceptable) in order to be reimbursed. Reimbursable expenses may include the following:

- The cost of travel. Modes of transportation that will adequately accommodate travel scheduling requirements and that are the most direct and cost effective to RIAC. The cost of air transportation shall not exceed the cost of coach airfare. Airfare will only be reimbursed up to the cost of coach airfare shown on the ticket, and not on the basis of any frequent flyer agreement.
- Employees will be reimbursed for the use of personal vehicles at the GSA approved rate. Any reimbursement for travel must include back-up for the mileage (i.e. MapQuest).
- Ground transportation includes taxis, rental cars, buses and trains.
- RIAC will reimburse up to a full size automobile rental when other means of ground transportation would not be deemed cost effective. Parking costs, tolls, and other similar fees.
- Consultants conducting business at T. F. Green Airport should park in the hourly parking lot and have their tickets validated by RIAC Staff. RIAC will not reimburse for parking at T. F. Green Airport.
- All lodging will be at the single occupancy rate and must be supported and documented with detailed hotel receipts. Please contact RIAC @ procurement@pvdairport.com for the preferred hotels. If a contractor fails to do so, the contractor will only be reimbursed for the rates negotiated by RIAC at their preferred hotels.
- RIAC will pay for reasonable meals and tips. If tips are given, the amount should be reflected on the receipt for the meal.
- All travel and expense reports must be submitted for payment within one (1) month of the travel or expense. RIAC reserves the right to refuse payment of expenses submitted after one (1) month of being incurred.
- All detailed receipts should include the date, the vendor, and in the case for meals where the invoice is for more than one person, a listing of each individual.

Expenses that will be **rejected** may include, but are not limited to the following:

- Unreasonable expenses, including meals, tips, lodging and transportation. RIAC considers the following as reasonable with respect to meals (Breakfast < $10, Lunch < $15, Dinner, <$20. Anything over these amounts may be considered unreasonable and not paid (excluding tip).
- Receipts for alcoholic beverages are NOT reimbursable. Alcoholic beverages should not be included on any receipts.
- UPS/Fed Ex/etc. fees for the mailing of any documents/invoices, unless agreed upon by RIAC.
- Late fees, interest and/or finance charges due to untimely payments.
- Mileage over and above the lesser of: mileage from CONSULTANT Rhode Island offices to T. F. Green or mileage from a CONSULTANT's employee's home to T. F. Green.
- RIAC will only reimburse for either gas or mileage, not both.
- Lease of vehicles without detailed supporting documentation.

- Badging deposits paid to RIAC. These deposit will be returned once the badge is returned
- Any licensing and/or training fees for CONSULTANT's employees.
- Minimum order charges for recurring expenses.
- Expenses that are not specified for and/or associated to the Project, such as Annual Independent Audits.
- Hotel expenses above the cost of the negotiated rates set by RIAC

**EXHIBIT E**

# FAA REQUIRED CONTRACT CLAUSES

As applicable, CONSULTANT agrees as follows:

## 1. NONDISCRIMINATION – GENERAL

a. Applicability: Clauses 1.b to 1.e. apply to all contracts and must be included in all subcontracts.

b. CONSULTANT agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

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

d. This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

e. In these cases the provision obligates the party or any transferee for the longer of the following periods:

i. the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or

ii. the period during which the airport sponsor or any transferee retains ownership or possession of the property.

## 2. NONDISCRIMINATION – TITLE VI

a. Applicability: Clause 2.b. applies to all contracts and must be included in all subcontracts.

b. During the performance under this AGREEMENT, CONSULTANT, for itself, its assignees, and successors in interest, agrees as follows:

i. **Compliance with Regulations**. CONSULTANT shall comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities listed below in Section 2. b. vii. ("Regulations") as they may be amended from time

to time, which are hereby incorporated herein by reference and made a part of this AGREEMENT.

ii. **Nondiscrimination**. CONSULTANT, with regard to the SERVICES performed by it during the term of this 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. CONSULTANT will not participate directly or indirectly in the discrimination prohibited by the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

iii. S**olicitations for Subcontracts**. In all solicitations either by competitive bidding or negotiation made by CONSULTANT for services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by CONSULTANT of CONSULTANT's obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

iv. **Information and Reports**. CONSULTANT 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 RIAC or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to RIAC or the FAA as appropriate, and shall set forth what efforts it has made to obtain the information.

v. **Sanctions for Noncompliance**. In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, RIAC shall impose such contractual sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to CONSULTANT under this AGREEMENT until CONSULTANT complies, and/or

(b) cancellation, termination, or suspension of this AGREEMENT, in whole or in part.

vi. **Incorporation of Provisions**. CONSULTANT shall include the provisions of 2.b. (i) through (vi) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. CONSULTANT shall take such action with respect to any subcontract or procurement as RIAC or the FAA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States or RIAC.

vii. **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**. During the performance of this Agreement, CONSULTANT, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- 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); and 49 CFR part 21.
- 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, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

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

3. **ACCESS TO RECORDS AND REPORTS**.

a. Applicability: Clause 3.b. applies to all AIP eligible projects and must be included in all subcontracts.

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

**4. BREACH OF CONTRACT TERMS.**

a. Applicability: Clause 4.b. applies to all AIP eligible projects that exceed $100,000 and must be included in all subcontracts meeting that threshold.

b. Any violation or breach of terms of this AGREEMENT on the part of the CONSULTANT or its subcontractors or subconsultants may result in the suspension or termination of this AGREEMENT or such other action that may be necessary to enforce the rights of the parties of this AGREEMENT. The duties and obligations imposed by the 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.

**5. BUY AMERICAN PREFERENCE.**

a. Applicability: Clause 5.b. applies to all AIP eligible projects under which this AGREEMENT has a manufactured product as a deliverable and must be included in all applicable subcontracts.

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

eligible projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

6. **CLEAN AIR AND WATER POLLUTION CONTROL.**

a. Applicability: Clause 6.b. applies to all AIP eligible projects that exceed $100,000 and must be included in all subcontracts meeting that threshold.

b. CONSULTANT agrees:

i. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

ii. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

iii. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;

iv. To include or cause to be included in any construction contract or subcontract which exceeds $100,000 the aforementioned criteria and requirements.

**7. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS.**

a. Applicability: Clause 7.b. applies to all AIP eligible projects that exceed $100,000 and must be included in all subcontracts meeting that threshold.

b. CONSULTANT agrees:

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

one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

ii. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

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

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

**8. DEBARMENT AND SUSPENSION**

a. Applicability: Clauses 8.b and c. apply to all AIP eligible projects that exceed $25,000 and must be included in all subcontracts meeting that threshold.

b. By submitting a bid/proposal under the solicitation for this AGREEMENT, CONSULTANT certifies that at the time CONSULTANT submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

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

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

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

**9. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

a. Applicability: Clause 9.b. applies to all AIP eligible projects and must be included in all subcontracts.

b. CONSULTANT agrees to abide by the federal minimum wage provisions contained in the Fair Labor Standards Act (29 USC 201). CONSULTANT has full responsibility to monitor compliance to the referenced statute or regulation. CONSULTANT must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

10. **LOBBYING AND INFLUENCING FEDERAL EMPLOYEES.**

a. Applicability: Clause 10.b. applies to all AIP eligible projects and must be included in all subcontracts.

b. CONSULTANT certifies by executing this agreement, to the best of his or her knowledge and belief, now and at the time of the submission of its proposal, that:

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

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

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

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

a. Applicability: Clause 9.b. applies to all AIP eligible projects and must be included in all subcontracts.

b. CONSULTANT agrees to abide by the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). CONSULTANT has full responsibility to monitor compliance to the referenced statute or regulation. CONSULTANT must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

**12. RIGHT TO INVENTIONS.**

a. Applicability: Clause 12.b. applies to all AIP eligible projects and must be included in all subcontracts.

b. All rights to inventions and materials generated under this AGREEMENT are subject to requirements and regulations issued by the FAA and RIAC of the Federal grant under which this contract is executed.

13. **TERMINATION OF CONTRACT.**

a. Applicability: Clause 13.b. applies to all AIP eligible projects that exceed $10,000 and must be included in all subcontracts meeting that threshold.

b. Additional Termination Rights**:**

i. RIAC may, by written notice, terminate this contract in whole or in part at any time, either for the RIAC's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to RIAC.

ii. If the termination is for the convenience of RIAC, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.

iii. If the termination is due to failure to fulfill the contractor's obligations, RIAC may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to RIAC for any additional cost occasioned to RIAC thereby.

iv. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed to have been effected for the convenience of RIAC. In such event, adjustment in the contract price will be made as provided in paragraph ii of this clause.

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

**14. TRADE RESTRICTION**

a. Applicability: Clause 14.b. applies to all AIP eligible projects and must be included in all subcontracts.

b. CONSULTANT, by execution of this AGREEMENT, certifies that it:

i. 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 published by the Office of the United States Trade Representative (USTR);

ii. 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 on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;

iii. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

iv. Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

v. Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

vi. The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide written notice to the contractor if at any

time it learns that its certification was erroneous by reason of changed circumstances.

15. **TEXTING WHEN DRIVING**

a. Applicability: Clauses 15.b. and c. apply to AIP eligible projects and must be included in all subcontracts.

b. 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), 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.

c. CONSULTANT must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. CONSULTANT must include these policies in each third party subcontract involved on this project.

**16. VETERAN’S PREFERENCE**

a. Applicability: Clause 16.b. applies to all AIP eligible projects and must be included in all subcontracts that involve labor.

b. In the employment of labor (except in executive, administrative, and supervisory positions), preference must be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Title 49 United States Code, Section 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**17. DISADVANTAGED BUSINESS ENTERPRISES**

a. Applicability: Clauses 16.b. through e. apply to all AIP eligible projects and must be included in all subcontracts.

b. In connection with the performance of this AGREEMENT, CONSULTANT shall cooperate with RIAC in meeting its commitments and goals with respect to the maximum utilization of Disadvantaged Business Enterprises (DBEs). CONSULTANT shall use reasonable efforts to ensure that DBEs shall have the maximum opportunity to compete for subconsultant and subcontractor work under this AGREEMENT in accordance with RIAC's requirements relating to disadvantaged businesses. The stated goal for DBE participation under this AGREEMENT is eight and six tenths percent (8.6 %).

c. On a monthly basis, in such form as RIAC may require, CONSULTANT shall provide a written report setting forth the efforts undertaken by CONSULTANT to comply with the requirements of this section and the level of participation of disadvantaged enterprises in the work undertaken pursuant to this AGREEMENT. Such report shall accompany the monthly invoices for payment submitted by CONSULTANT.

d. CONSULTANT, and any subcontractor or subconsultant**,** shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this AGREEMENT or such other remedy, as the recipient deems appropriate.

e. CONSULTANT agrees to pay each subcontractor or subconsultant under this AGREEMENT for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the CONSULTANT receives from RIAC. CONSULTANT agrees further to return retainage payments to each subcontractor or subconsultant within ten (10) days after the subcontractor's or subconsultant'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 RIAC. This clause applies to both DBE and non-DBE subcontractors and subconsultants.