

## **A/E CONTRACT TERMS AND CONDITIONS**

### **Charlottesville Albemarle Airport Authority**

(Revised 01/2015)

**CHO-AE-2**

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This document (A/E Contract Terms and Conditions) shall be attached to and incorporated within any contract between the Charlottesville-Albemarle Airport Authority (OWNER) and any contract with an architect or engineer for professional services.

The OWNER may normally contract with a single entity to serve as “prime professional” to provide necessary architectural or engineering services for a Project. Such “prime professional” may have all necessary disciplines available in-house, or it may subcontract with consultants to provide services in some disciplines. The “prime professional” contract may be with an architect (A) or engineer (E), or an entity that offers both services. Whenever this document refers to “A/E” that term shall be deemed to refer to an architect, an engineer or an entity that offers both services, as the context may require.

### **SECTION I - BASIC SERVICES**

#### **A. Project Development Phase:**

1. Consult with OWNER, state and federal government agencies (when required) to clarify and define the requirements for a Task or Project and review available data.
2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in Section II. Assist the OWNER in contracting for such services.
3. Prepare preliminary design necessary to determine the type, size, and scope of a Task or Project, based upon projected aviation activity and current airport standards in effect at the date of this Contract.
4. Prepare preliminary cost estimate for the Task or Project.
5. Make minor revisions to the airport layout plan as necessary to reflect the details of a Project.
6. Prepare applications for federal and/or state assistance grants for funding of the Tsk or Project.
7. Furnish five (5) copies of drawings, sketches, forms and reports as appropriate to the OWNER for submission to government agencies.
8. Assist the OWNER in obtaining financing for a Task or Project.
9. Perform additional Services as described and required by Owner’s written authorization.

#### **B. Design Phase:**

After written authorization to proceed the A/E shall:

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

---

1. In consultation with the OWNER and other government agencies through conferences, meetings, or submission of preliminary reports as appropriate, determine the extent of the Project and the design criteria to be used in the final design.
2. Prepare an A/E's report in accordance with FAA criteria, which shall include but not necessarily be limited to:
  - a. An analysis and reasons for the design choices;
  - b. An analysis of the manner in which the work will be accomplished; and
  - c. A project cost estimate based upon the final design.
3. Advise the OWNER of needed special services as described in Section II and assist the OWNER in the evaluation and selection of other professionals to provide special services, such as soil borings, laboratory tests and surveys, or provide such services in accordance with this Contract and any related Project Order(s).
4. Prepare final design, contract drawings, specifications and contract documents. Prepare for review and approval by OWNER, his legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitation to bid and instructions to bidders, and assist in the preparation of other related documents.
5. Assist OWNER in submitting appropriate documents to local, state and federal agencies for necessary approvals and permits.
6. Assistance to the OWNER in obtaining bids, tabulations, and analysis of bid results, and furnishing recommendations in connection with the award of construction contracts.
7. Perform additional work as described and required by a Project Order.

#### C. Construction Phase:

1. Assistance in preparation of formal contract documents for the award of construction contract.
2. Consult with and advise the OWNER on all technical matters and act as the OWNER's representative in dealing with a construction contractor on such matters. The A/E shall issue all necessary interpretations and clarifications of the construction contract documents within a reasonable time. The A/E shall issue any necessary Field Orders, and shall assist the OWNER with the review of change orders proposed by a construction contractor and with development of change orders proposed by the OWNER. Any matters of a technical nature which affect the integrity of the exterior architectural,

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structural, or fire safety systems, or which affect the integrity or operation of mechanical, plumbing or electrical systems shall be validated by the A/E before any Field Order or Change Order is issued.

3. Make visits to the site at intervals appropriate to the various stages of construction to observe as experienced and qualified design professionals the progress and quality of the executed work of Contractor(s) and to determine in general if such work is proceeding in accordance with the contract documents. The A/E may disapprove or reject a construction Contractor's Work, or any portion thereof, while the Work is in progress, if the A/E believes that such Work does not conform to the construction contract documents, or with approved shop drawings or other submittals. The A/E may also recommend that the OWNER reject any Work which it believes will not result in a completed Project that conforms generally to the construction contract documents or that it believes will prejudice the integrity of the design as reflected in such documents. The A/E shall document such disapproved or rejected work in writing. The A/E shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of such work. A/E shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s). A/E's efforts will be directed toward providing a greater degree of confidence for OWNER that the completed work of Contractor(s) will conform to the contract documents, but A/E shall not be responsible for the failure of Contractor(s) to perform the work in accordance with the contract documents. During such visits and on the basis of on-site observations, A/E shall keep OWNER informed of the progress of the work, shall endeavor to guard OWNER against defects and deficiencies in such work and may disapprove or reject work failing to conform to the contract documents.
4. Review and approve (or take other appropriate action in respect of) shop drawings and samples, the results of tests and inspections and other data which each Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the contract documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques or procedures of construction or to safety precautions and programs incident thereto; determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor(s) in accordance with the contract documents.
5. Review laboratory, shop and mill test reports and prepare a tabulation or summary of laboratory test results to assist in monitoring the quality of construction.
6. Recommend to OWNER change orders and/or supplemental agreements to the construction contract incidental to existing field conditions or improvements in the project design. Prepare estimates of cost or saving from proposed change order(s),

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

---

prepare change order(s) along with basis for recommendation and negotiate on behalf of OWNER with the Contractor to arrive, if possible, at an appropriate compensation resulting from the proposed revisions. The A/E is not required by this provision to accomplish extensive design revisions and drawings resulting from a change in project scope or major changes in design concept previously accepted by the OWNER where changes are due to causes beyond the A/E's control. A/E shall not authorize any deviation from the contract documents, or substitution of materials or equipment, without the consent of OWNER.

7. Advise the OWNER of needed special services and assist the OWNER in acquisition of such services as appropriate.
8. Based upon A/E's on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts; such recommendations of payment will constitute a representation to OWNER, based on such observation and review, that the work has progressed to the point indicated, that to the best of A/E's knowledge, information and belief, the quality of such work is in accordance with the contract documents (subject to an evaluation of such work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the contract documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due Contractor(s); but by recommending any payment A/E will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by A/E to check the quality or quantity of the work or to review the means, methods, sequences, techniques or procedures of construction or safety precautions or programs incident thereto or that A/E has made an examination to ascertain how or for what purposes any Contractor has used the monies paid on account of the contract price, or that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that Contractor(s) have completed their work exactly in accordance with the contract documents.
9. Prepare OWNER's applications for partial and final payments for submission to government agencies.
10. Conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the work has reached final completion in accordance with the contract documents and if each Contractor has fulfilled all of his obligations thereunder so that A/E may recommend, in writing, final payment to each Contractor and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but such recommendation and notice shall be subject to the limitations expressed herein.

## **A/E CONTRACT TERMS AND CONDITIONS**

### **Charlottesville Albemarle Airport Authority**

(Revised 01/2015)

**CHO-AE-2**

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11. A/E will prepare for OWNER, on request, a set of record drawing prints showing those changes made during the construction process, based upon the marked-up prints, drawings and other data furnished by Contractor(s) to A/E and which A/E considers significant.
  12. The A/E shall not be responsible for the acts of omission of any construction Contractor, or subcontractor, or any of the construction Contractor(s) or subcontractor(s) agents or employees or any other persons (except A/E's own employees and agents) at the site or otherwise performing any of the contractor(s)' work; however, nothing contained herein shall be construed to release the A/E from liability for failure to perform properly duties undertaken by the A/E under this Contract.

### **SECTION II - SPECIAL SERVICES**

At written request of the OWNER, the A/E shall accomplish such special services as required by the OWNER to complete the project. At the option of the OWNER, special services may be provided by the OWNER through subcontracts with other professionals or may be provided by the A/E. When the A/E is requested to provide special services, such services may be provided by A/E's own forces or through subcontracts with other professionals. Compensation for Special Services provided by A/E shall be in accordance with one of the methods identified in Section V - Payment of Services.

Special services that may be requested include, but are not necessarily limited to the following:

- A. Land surveys as necessary to establish property boundaries required for property acquisition purposes or preparation of property maps.
- B. Soils and material investigations including test boring, laboratory testing of soils and materials, related analyses and recommendations.
- C. Engineering surveys (for design and construction) to include topographic surveys, base line surveys, cross section surveys, etc.
- D. Technical inspection of construction by full time Resident Project Representative, as required and approved by the OWNER. When authorized by the OWNER the duties, responsibilities and limitations of authority shall be described in Section IV.
- E. Reproduction of additional copies of reports, contract documents and specifications above the specified number furnished in Basic Services.
- F. Assistance to the OWNER as expert witness in litigation arising from development or construction of the Project.

## **A/E CONTRACT TERMS AND CONDITIONS**

### **Charlottesville Albemarle Airport Authority**

(Revised 01/2015)

**CHO-AE-2**

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- G. The accomplishment of special surveys and investigations, and the preparation of special reports and drawings as may be requested or authorized in writing by the OWNER in connection with the Project.
  - H. Extra work created by design changes, after approval of plans and specifications by the OWNER FAA and DOAV, and beyond the control of the A/E, that may be requested or authorized in writing by the OWNER in connection with the Project.
  - I. Extra work required to revise or prepare contract documents, plans and specifications to facilitate the award of more than one construction contract, in the event the OWNER adopts such construction program.
  - J. Services resulting from significant changes in extent of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, or character of construction or method of financing; and revising previously accepted studies, reports, design documents or contract documents when such studies, reports, design documents or contract documents when such revisions are due to causes beyond A/E's control.
  - K. Providing renderings or models for OWNER's use.
  - L. Investigations involving detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for Project; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.
  - M. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of Contractor(s), (3) prolongation of the contract time of any prime contract by more than thirty (30) days, (4) acceleration of the process schedule involving services beyond normal working hours, (5) default by Contractor(s), and (6) the actions of a resident project representative other than an employee of the A/E.
  - N. Preparation of operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial start-up, testing, adjusting and balancing); and training personnel for operation and maintenance.
  - O. Services after completion of the construction phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any contract for the Project.

### **SECTION III - RESPONSIBILITIES OF THE OWNER**

- A. Make available for A/E's use all record drawings, maps, soil data, etc.

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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- B. Respond in a timely manner to submissions by A/E providing approvals and authorizations as appropriate so that work may continue at a normal pace.
- C. Pay all costs associated with special services authorized by the OWNER, and all costs associated with obtaining bids from contractors.
- D. Furnish as required for performance of A/E's basic services, data prepared by or services of others, including without limitation, core borings, probes and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys, property descriptions; zoning, deed and other land use restrictions; and other special data or consultations not covered herein; all of which A/E may rely upon in performing his services. For each Project Order OWNER shall provide the A/E with a description of the Task or Project that is to be the subject of such Order, including information on functions, space requirements, special features and requirements, aesthetic requirements, authorized square footage, and "design-not-to-exceed" construction budget.
- E. Arrange for access to and make all provisions for A/E to enter upon public and private property as required for A/E to perform his services.
- F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by A/E, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render decisions pertaining thereto within a reasonable time so as not to delay the services of A/E.
- G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consent from others as may be necessary for completion of the Project.
- H. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as OWNER may require or A/E may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing services as OWNER may require to ascertain how or for what purpose any Contractor has used the monies paid to him under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule or regulation applicable to their performance of the work.
- I. Give prompt written notice to A/E whenever OWNER observes or otherwise becomes aware of any development that affects the scope of timing of the A/E's services, or any defect in the work of Contractor(s).
- J. Generally, the OWNER will observe the procedure of issuing orders and decisions to a construction Contractor through the A/E or through a third-party project representative

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designated by the OWNER, if applicable. If the OWNER issues orders directly to a construction Contractor, the A/E shall be copied on such order.

**SECTION IV - RESIDENT PROJECT REPRESENTATIVE**

With agreement of the OWNER as part of a Project Order, A/E may furnish a Resident Project Representative, assistants and other field staff to assist A/E in observing performance of the work of the Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by a Resident Project Representative and assistants, A/E shall endeavor to provide further protection for OWNER against defects and deficiencies in the work; but, the furnishing of such services will not make A/E responsible for or give A/E control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for Contractor's failure to perform the work in accordance with the contract documents.

The duties and responsibilities of the Resident Project Representative are limited to those of A/E in A/E's written Project Order with the OWNER and in the construction contract documents, and are further limited and described as follows:

A. General

Resident Project Representative is A/E's agent at the site, will act as directed by and under the supervision of A/E, and will confer with A/E regarding his actions. Resident Project Representative's involvement in matters pertaining to the on-site work shall in general be with the A/E and Contractor, keeping OWNER advised as necessary. Resident Project Representative's contact with subcontractors shall only be through or with the full knowledge and approval of Contractor. Resident Project Representative shall generally communicate with OWNER with the knowledge of and under the direction of A/E.

B. Duties and Responsibilities of Resident Project Representative:

1. Schedules:

Review the progress schedule, schedule of shop drawing submittals and schedule of values prepared by Contractor and consult with A/E concerning acceptability.

2. Conferences and Meetings:

Attend meetings with Contractor, such as pre-construction conferences, progress meetings, job conferences and other Project related meetings, and prepare and circulate copies of minutes thereof.

3. Liaison:

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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- a. Serve as A/E's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the contract documents; and assist A/E in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-site operations.
- b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the work, according to the contract documents.
4. Shop Drawings and Samples:
  - a. Record date of receipt of shop drawings and samples.
  - b. Receive samples that are furnished at the site by Contractor, and notify A/E of availability of samples for examination.
  - c. Advise A/E and Contractor of the commencement of any work requiring a shop drawing or sample if the submittal has not been accepted by the A/E.
5. Review of Work, Rejection of Defective Work, Inspections and Tests:
  - a. Conduct on-site observations of the work in progress to assist A/E in determining if the work is, in general, proceeding in accordance with the contract documents.
  - b. Report to A/E whenever Resident Project Representative believes that any work is unsatisfactory, faulty or defective or does not conform to the contract documents, or has been damaged, or does not meet the requirements of any inspections, test or approval required to be made; and advise A/E of work that Resident Project Representative believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
  - c. Verify that tests, equipment and systems startup, and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record and report to A/E appropriate details relative to tests, procedures, and startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of the inspections and report to A/E.
6. Interpretation of Contract Documents:

Report to A/E when clarifications and interpretations of the contract documents are needed and transmit to Contractor clarifications and interpretations as issued by A/E.
7. Modifications:

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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Consider and evaluate Contractor's suggestions for modifications in drawings or specifications and report with Resident Project Representative's recommendations to A/E. Transmit to Contractor decisions as issued by A/E.

#### 8. Records:

- a. Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and samples, reproductions of original contract documents including all work directive changes, addenda, change orders, field orders, additional drawings issued subsequent to the execution of the Contract, A/E's clarifications and interpretations of the contract documents, progress reports, and other Project-related documents.
- b. Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions of work directive changes, change orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to A/E.
- c. Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of material and equipment.

#### 9. Reports:

- a. Furnish A/E periodic reports as required of progress of the work and of Contractor's compliance with the progress schedule and schedule of shop drawings and sample submittals.
- b. Consult with A/E in advance of scheduled major tests, inspections or start of important phases of the work.
- c. Draft proposed change orders and work directive changes, obtaining backup material from Contractor and recommend to A/E change orders, work directive changes, and field orders.
- d. Report immediately to A/E and OWNER upon the occurrence of any accident.

#### 10. Payment Requests:

Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to A/E, noting particularly the relationship of the payment requested to the schedule of values, work completed and materials and equipment delivered at the site but not incorporated in the work.

11. Certificates, Maintenance and Operations Manuals:

During the course of the work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the contract documents, and have this material delivered to A/E for review and forwarding to OWNER prior to final payment for work.

12. Completion:

- a. Before A/E issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Conduct on-site review in the company of A/E, OWNER and Contractor and prepare a final list of items to be completed or corrected.
- c. Observe that all items on final list have been completed or corrected and make recommendations to A/E concerning acceptance.

C. Limitations of Authority of the Resident Project Representative:

1. Shall not authorize any deviation from the contract documents or substitution of materials or equipment.
2. Shall not exceed limitations of A/E's authority as set forth in the contract documents.
3. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the contract documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the work.
6. Shall not accept shop drawing or sample submittals from anyone other than Contractor.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by A/E.

**SECTION V – COMPENSATION FOR PROFESSIONAL SERVICES**

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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The OWNER agrees to compensate the A/E for services performed in accordance with one of the following methods as hereinafter set forth. The method of payment and the amount for specified services shall be detailed in a Project Order, which shall be prepared by the A/E and submitted to the OWNER for review and approval. The receipt of an approved Project Order from OWNER will constitute the A/E's Notice-to-Proceed, unless a separate Notice-to-Proceed is contemplated by the Project Order.

The A/E is not to undertake any work prior to the receipt of an approved Project Order executed and approved by the OWNER.

#### A. Methods of Compensation:

One or more of the following methods of compensation shall be used to establish the compensation to be received by the A/E for Services rendered under a Project Order. Each Project Order shall identify the specific method of compensation. For either method, the fair and reasonable prices negotiated between the OWNER and the A/E, as set forth within the Pricing Schedule attached to the parties' Contract, shall be used in determining the cost of each task or project performed.

##### 1. Fixed Fee (Lump Sum) Method:

For work that can be defined and delineated in advance, payment to the A/E will be made on the basis of a fixed fee. The agreed fee shall represent full payment for all payroll, overhead, profit, and other direct non-salary expenses. The fixed fee will neither increase nor decrease unless the parties agree to a change in the scope, complexity, or duration of the work.

##### 2. Hourly Method:

Under this method of payment, the A/E's compensation will be equal to the hours expended on a Project times the hourly rates established in a Project Order, subject to any not-to-exceed amount specified in the applicable Project Order.

#### B. A/E's Obligations and Requirements:

1. Time charged to the Project by A/E personnel will include the time that the applicable employees are engaged in actual work on the Project at the A/E'S office, at the site of the Project, or travel status in connection with the Project.
2. Only the personnel needed and required to accomplish the services in keeping with the prescribed schedule shall be assigned to the Project.
3. A/E may assign personnel classifications to the project that differ from those originally anticipated and outlined in the Work Authorization, after written notice to OWNER, but only if such changes do not affect the budget or any agreed terms of a Project Order.

**A/E CONTRACT TERMS AND CONDITIONS**

**Charlottesville Albemarle Airport Authority**

(Revised 01/2015)

**CHO-AE-2**

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4. Charges will not be made to the Project during periods of sickness, vacation or at any other times when personnel assigned are not gainfully employed on the work.
5. In addition to any lump sum or hourly-fee payment, the A/E shall be entitled to receive payment for reimbursable expenses directly incurred in connection with the Project, including, without limitation: reasonable travel costs; copying, printing, etc. documents; necessary consulting expenses, reimbursable at 1.05 time the direct cost incurred by the A/E therefor.
6. Requests for payment shall be set forth within properly documented invoices or other billing statements of a format acceptable to OWNER (either, an "invoice"). The A/E shall remit invoice(s) to OWNER for payment, no more frequently than once per month. Each invoice shall seek payment only for services actually performed, and for reimbursable expenses actually incurred, as of the date of submission of the invoice. Documentation of reimbursable expenses claimed shall be attached to the invoice. Each invoice must be supported by documentation acceptable to the OWNER, in its discretion, establishing that the services referenced within the invoice have been performed in accordance with the parties' agreement. A/E shall promptly comply with a request from OWNER for documentation deemed necessary by the OWNER for approval of an invoice.
7. Each invoice shall bear the signature of an individual authorized to bind the A/E and speak on its behalf. The signature of the A/E's authorized representative shall constitute the A/E's representation to OWNER that the services indicated in the invoice have reached the level stated, have been properly and timely performed in accordance with the parties' Contract, and the amount(s) requested for payment are currently due and owing, there being no reason(s) known to the A/E why payment of any portion thereof should be withheld.
8. In the event any invoice contains a defect or impropriety that would prevent payment by the required payment date, the OWNER shall notify the A/E's authorized representative in writing of such defect or impropriety. In the event OWNER becomes credibly informed that any representations of the A/E as set forth in the preceding paragraph are wholly or partially inaccurate, the OWNER may withhold payment of sums then, or in the future, owing to the A/E until the inaccuracy and the cause thereof, is corrected to the OWNER's satisfaction. All prior payments may be corrected and adjusted by the OWNER within any payment to the A/E, and if not previously corrected shall be corrected and adjusted in the final payment to the A/E.

**C. Required Payment Date:**

Invoices shall be due and payable within 30 days after the date of invoice, subject to any limitations or conditions precedent as may be set forth within the parties' Contract or any applicable Project Order.

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Upon receipt of payment from OWNER of any invoice, the A/E shall remit payment to each and every subcontractor who performed any work or services that were the subject of such invoice, within the time periods required by Virginia Code Sec. 2.2-4354(1). The A/E shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment requirements, with respect to each lower-tier subcontractor.

**SECTION VI - MISCELLANEOUS**

A. Estimates:

Since the A/E has no control over the cost of labor and materials or over competitive bidding market conditions, the estimates of construction cost provided for herein are to be made on the basis of experience and qualifications, but the A/E does not guarantee the accuracy of such estimates as compared to the Contractor's bids of the Project construction cost.

B. Extra Services:

It is mutually understood and agreed that the OWNER will compensate the A/E for services resulting from significant changes in general scope of a Task or Project, including but not necessarily limited to, changes in size, complexity, construction schedule, character of construction, revisions to previously accepted studies, reports, design documents or contract documents and for preparation of documents for separate bids, (individually and collectively, "Extra Services") when such Extra Services are due to causes beyond the A/E's control and when requested or authorized by the OWNER. Extra work may also include special services as identified in Section II - Special Services. Compensation for Extra Services shall be in accordance with a Project Order signed by both parties, calculated using one of the methods identified in Section V.

During the development of a Project the A/E may expect clarifications and refinements within the general scope of the Project and shall make necessary adjustments accordingly. Approved preliminary design based on incorporation of review comments and accepted value engineering (VE) recommendations establish the requirements for development of working drawings and final design of a Project. Incorporating VE recommendations justified on payback and changes in functional layout to achieve greater efficiency or cost savings shall be deemed within the scope of the parties' Contract, and shall not be considered "Special", "Extra" or "Additional" Services. Likewise, any changes or modifications required to conform to applicable code requirements shall be deemed within the scope of the parties' Contract.

C. Reuse of Documents:

All documents, including drawings and specifications prepared by A/E pursuant to this Contract, are instruments of service in respect of a Task or Project. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

---

any other Project. Any reuse without written verification or adaptation by A/E for the specific purposes intended will be at OWNER's sole risk and without liability or legal exposure to A/E; and OWNER shall indemnify and hold harmless A/E from all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle A/E to further compensation at rates to be agreed upon by OWNER and A/E. Notwithstanding these provisions the OWNER shall be provided upon request a reproducible copy of any drawing produced under this Contract at the cost of reproduction.

#### D. Responsibilities of the A/E:

1. The A/E shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the A/E under this Contract. The A/E's services shall be rendered in accordance with generally accepted practices (architectural or engineering, as may be applicable) as indicated by the intended purpose of a particular Task or Project. All final documents (100% construction documents) for OWNER's construction projects shall bear the seal(s) and signature(s) of the licensed professional(s) who prepared them.
2. Approval by the OWNER, FAA or DOAV of drawings, designs, specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve the A/E of its obligations under the preceding paragraph.
3. A/E shall maintain all required records for three years after the OWNER makes final payment and all other pending matters are closed.
4. The A/E shall be responsible for all damages incurred or suffered by the OWNER resulting from (a) errors or omissions in any design or construction documents attributable to the A/E or its subcontractor(s); (b) negligent performance of professional services by the A/E or its subcontractor(s); or (c) other breach of any applicable standard of care established under the laws of the Commonwealth of Virginia, by A/E or its subcontractor(s). Damages that the owner may incur include, but are not limited to: OWNER's own costs of labor of its employees, and other in-house costs of OWNER; Contractor change order costs, including removal, repair, replacement or modification of work performed by a Contractor in accordance with design or construction documents provided by A/E; any Contractor or OWNER delay damages, and cumulative impact claims/lost productivity damages; and judgments, fines or penalties against the OWNER. The A/E agrees to indemnify and hold the OWNER harmless from and against all such damages.
5. If the A/E has reason to believe that the use of a required design, process or product would constitute an infringement of a patent or other intellectual property right, the A/E shall promptly provide such information to OWNER. To the fullest extent permitted by law, the A/E shall indemnify and hold OWNER harmless from and against any and all liability, loss, claims, demands, suits, costs, fees and expenses (including reasonable fees

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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and expenses of attorneys, expert witnesses and other consultants) for infringement of patents, copyrights or other intellectual property rights, except with respect to designs, process or products of a particular manufacturer expressly required by the OWNER in writing, and (ii) infringements about which the A/E timely notified OWNER and which occurred through no fault of the A/E.

6. The A/E shall be the professional advisor and consultant to the OWNER for technical matters related to a Task or Project and shall be responsible to and only to the OWNER. The A/E shall advise the OWNER of approvals and changes necessary to keep a Task or Project within the scope of a particular contract and within cost limits. The OWNER shall make the final decision on all approvals, rejections, change requirements and other similar decisions to the A/E.

#### E. Insurance.

Prior to commencement of performance of any Services during a Term of this Contract, A/E shall provide OWNER with certificate(s) of insurance confirming that the A/E has obtained the following types of insurance, with minimum limits of liability as specified following below:

1. Workers' Compensation: Workers' Compensation coverage with statutory requirements and benefits as specified under the laws of the Commonwealth of Virginia.
2. Broad Form Comprehensive Liability, \$1,000,000 combined single limit coverage. The policy/ policies shall be endorsed to name the OWNER as an additional insured party with respect to the Services being provided by the A/E. Coverage shall include: premises/ operations liability; products and completed operations coverage; independent contractors liability; owners' and contractors' protective liability; and personal injury liability (libel, slander, defamation, etc.).
3. Automobile Liability. \$500,000 combined limit, per occurrence, for bodily injury and property damage.

#### F. Termination of Contract

1. The parties' Contract, or any Project Order, may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligation through no fault of the terminating party, provided that no such termination may be effected unless the other party has been given:
  - a. Not less than ten (10) calendar days written notice of intent to terminate; and
  - b. An opportunity for consultation with the terminating party prior to termination.
2. If the termination is due to failure to fulfill the A/E's obligations, the OWNER may take over the work and prosecute the same to completion by contract or otherwise. In such case, the A/E shall be liable to the OWNER for any additional cost occasioned to the

**A/E CONTRACT TERMS AND CONDITIONS**

**Charlottesville Albemarle Airport Authority**

(Revised 01/2015)

**CHO-AE-2**

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OWNER thereby.

3. If, after notice of termination issued by OWNER for the A/E's failure to fulfill contract obligations, it is determined that the A/E had not so failed, the termination shall be deemed to have been effected for the convenience of the OWNER.
4. The OWNER may, by written notice, terminate this contract in whole or in part at any time for the OWNER's convenience.
5. Upon receipt of a termination notice, the A/E shall promptly discontinue all services affected (unless the notice directs otherwise) and deliver or otherwise make available to the OWNER copies of all data, drawings, specifications, report estimates, summaries, and such other information and materials as may be accumulated by the A/E performing this Contract, whether completed or in process.
6. If this Contract is terminated by either party, the A/E shall be paid for services rendered and reimbursable items incurred prior to the effective date of termination, as well as reasonable costs associated with the termination.
  - a. If the termination of the Contract occurs at the conclusion of one phase and prior to authorization of the OWNER to begin the next phase, payment by the OWNER for the completed phase shall be considered full compensation due the A/E.
  - b. If Contract is terminated by the OWNER for default of the A/E, the amount due the A/E may be adjusted to the extent of any additional cost incurred by the OWNER as a result of the A/E's default. In such circumstances, any payment due and owing to the A/E shall be reduced and offset by all costs and damages incurred by the OWNER as a result of the A/E's default, including, without limitation, OWNER's reasonable attorney's fees.
  - c. If the termination is for the convenience of the OWNER, an equitable adjustment in the contract price shall be made, provided, however, that no amount shall be allowed to the A/E for anticipated profit on unperformed services.
7. The rights and remedies of the OWNER provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**G. Contractual disputes; remedies:**

Contractual claims, whether for money or other relief, shall be submitted by the A/E in writing to the OWNER no later than thirty (30) days after final payment of the A/E for services rendered during any Term of the parties' Contract. However, written notice of the A/E's intention to file a claim shall be given within ten (10) days of the occurrence or beginning of the work or services upon which the claim is based. Such notice shall state that it is a "notice of intent to file a claim" and must include a written statement describing the act

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or omission of the OWNER that allegedly caused or may cause damage to the A/E and the nature of the damage(s) intended to be claimed. The timely filing of such notice of intent to file a claim is a prerequisite to a recovery; failure to timely submit such notice of intent to file a claim shall constitute a conclusive waiver of the claim by the A/E. Oral notice, the OWNER's actual knowledge, or written notice given after the 10-day time period, shall not be sufficient to satisfy the requirements of this section.

No written decision denying a claim or addressing issues related to the claim shall be considered a denial of the claim unless the written decision is signed by OWNER's Executive Director, or designee. The A/E may not institute legal action prior to receipt of the final written decision on a claim. The A/E may submit claims to the OWNER during the Term of this Contract; however, OWNER shall not be obligated to render a written decision on any claim until after final payment has been made to the A/E for Services delivered within the Contract Term. The OWNER shall render a final decision on a claim within 90 days of the submission of the claim, or 90 days after final payment, whichever is later. Failure of the OWNER to render a decision within the applicable 90-day period shall not result in the A/E being awarded the relief claimed, or in any other relief or penalty. The sole remedy for the OWNER's failure to render a decision within the applicable 90-day period shall be the A/E's right to institute immediate legal action.

The OWNER's decision on a claim shall be final and conclusive unless the A/E appeals within six (6) months of the date of the final decision on the claim by instituting legal action as provided in Virginia Code § 2.2-4364.

Except as may be otherwise provided in this Contract any dispute arising out of or related to this Contract may be submitted for non-binding mediation if the parties hereto mutually agree.

**SECTION VII - REQUIRED FEDERAL CONTRACT PROVISIONS**

**A. PROVISIONS FOR ALL WORK AUTHORIZATIONS REGARDLESS OF FUNDING SOURCE**

1. Airport and Airway Improvement Act of 1982, Section 520 - General Civil Rights Provisions

A/E 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.

2. Civil Rights Act of 1964, Title VI – Contractor Contractual Requirements

During the performance of this contract, A/E, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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- a. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- b. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subconsultant or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- d. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- f. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

A/E 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.

#### 3. Ban on Texting When Driving

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, A/E is encouraged to:
  1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
  2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
    - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
    - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. A/E must insert the substance of this clause on banning texting when driving in all subgrants, contracts and subcontracts.

#### B. ADDITIONAL PROVISIONS FOR ALL AIP FUNDED WORK AUTHORIZATIONS

##### 1. Access to Records and Reports

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to

**A/E CONTRACT TERMS AND CONDITIONS**

**Charlottesville Albemarle Airport Authority**

(Revised 01/2015)

**CHO-AE-2**

the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

2. Buy American Certification

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the 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.

3. Disadvantaged Business Enterprises

Contract Assurance (§ 26.13) - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§ 26.29) - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 14 days from the receipt of each payment the prime contractor receives from OWNER. The prime contractor agrees further to return retainage payments to each subcontractor within 14 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the OWNER. This clause applies to both DBE and non-DBE subcontractors.

4. Federal Fair Labor Standards Act (Federal Minimum Wage)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

5. Lobbying and Influencing Federal Employees

The bidder or offeror certifies by signing and submitting this bid or proposal, 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 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.
- 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.

6. Occupational Safety and Health Act Of 1970

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

7. Rights To Inventions

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

8. Trade Restriction Clause

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

## A/E CONTRACT TERMS AND CONDITIONS

### Charlottesville Albemarle Airport Authority

(Revised 01/2015)

CHO-AE-2

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

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.

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.

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.

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

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.

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.

**C. ADDITIONAL PROVISIONS FOR AIP FUNDED WORK AUTHORIZATIONS EXCEEDING \$10,000**

**1. Termination of Contract**

- c. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor'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 the Sponsor.
- d. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- e. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- f. 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 the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph (b) of this clause.
- g. The rights and remedies of the Sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**D. ADDITIONAL PROVISIONS FOR AIP FUNDED WORK AUTHORIZATIONS EXCEEDING \$25,000**

**1. Debarment and Suspension (Non-Procurement)**

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

- 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

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.

**E. ADDITIONAL PROVISIONS FOR AIP FUNDED WORK AUTHORIZATIONS EXCEEDING \$100,000**

1. Breach of Contract Terms

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

2. Clean Air and Water Pollution Control

Contractors and subcontractors agree:

- a. 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;
- b. 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;
- c. 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;
- d. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

3. Contract Workhours and Safety Standards Act Requirements

- a. 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.

b. Violation; Liability for Unpaid Wages; Liquidated Damages

In the event of any violation of the clause set forth in paragraph (a) 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 (a) 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 (a) above.

c. Withholding for Unpaid Wages and Liquidated Damages

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from 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 (b) above.

d. Subcontractors

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