

**CONTRACT
AGREEMENT NO. EIGHT
FOR PROFESSIONAL SERVICES
AIRPORT TRITURATOR
DESIGN AND BIDDING PHASE SERVICES**

THIS AGREEMENT is made as of the 13th day of January, 2015 between the **Charlottesville-Albemarle Airport Authority**, a political subdivision of the Commonwealth of Virginia (hereinafter, "Owner"), and **Delta Airport Consultants, Inc.**, (hereinafter, "Engineer") a corporation organized and existing under the laws of the Commonwealth of Virginia, whose principal offices are located at 9711 Farrar Court, Suite 100, Richmond, Virginia, 23236.

WHEREAS, as indicated in the Request for Qualifications issued by the Owner (hereinafter, the "RFQ"), the Owner seeks to engage a qualified and experienced engineer to provide design and bidding phase services for the **Airport Triturator** project ("The Project") which will require similar experience and expertise; and

WHEREAS, the Owner has determined, on the basis of the information provided by the Engineer within its proposal submitted in response to the RFP that the Engineer is qualified, experienced and responsible to perform the services described herein for Project; and

WHEREAS, the Owner's engagement of the Engineer is based upon the Engineer's representations to the Owner that it is (i) an organization of professionals experienced in the type of services the Owner is engaging the Engineer to perform; (ii) is authorized and licensed to do business within the Commonwealth of Virginia and the County of Albemarle, Virginia, where the Airport is located; (iii) is qualified, willing and able to perform professional services for the Owner; and (iv) has the expertise and ability to provide professional services which will meet the Owner's objectives and requirements, and which will comply with all applicable requirements of governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Airport; and

WHEREAS, the Owner and Engineer each acknowledges that it has reviewed and familiarized itself with this Contract, including the documents incorporated herein by reference, and agrees to be bound by the terms and conditions contained herein; and

WHEREAS, the Engineer acknowledges and understands that the Owner's award of this Contract does not, and is not intended to, confer any exclusive right(s), contractual or otherwise, upon the Engineer;

NOW, THEREFORE, the Owner and the Engineer, for and in consideration of the mutual premises and agreements herein set forth, do hereby agree as follows:

SECTION ONE: CONTACT PERSONS AND NOTICES

A. The Owner's designated representative to receive all communications, claims and correspondence regarding this Contract is its Executive Director. All communications, claims and correspondence shall be sent to the Owner's representative. The Owner's representative shall also receive and examine documents submitted by the Engineer, interpret and define Owner's policies and render decisions and authorization in writing promptly to prevent unreasonable delay in progress of the Engineer's Services. Contact information for the Owner's representative is as follows:

Street & Postal Address: 100 Bowen Loop, Suite 200
Charlottesville, VA 22911
Telephone: 434-973-8342
Facsimile: 434-974-7476

B. The Engineer's designated representative to receive all communications, claims and correspondence regarding this Contract is Susan E. Winslow, P.E. All communications, claims and correspondence shall be sent to the Engineer's representative. Contact information for the Engineer's representative is as follows:

Street & Postal Address: 9711 Farrar Court, Suite 100
Richmond, Virginia, 23236
Telephone: 804-275-8301
Facsimile: 804-275-8371

C. Written notices required by this Contract shall be considered duly given if the original is: (i) hand delivered; (ii) delivered by facsimile; or (iii) sent by U.S. Mail, postage prepaid. All notices shall be given to the person(s) and address(es) set forth above. Notices hand delivered or delivered by facsimile shall be deemed given as of the next business day following the date of delivery. Notices given by U.S. Mail shall be deemed given as of the second business day following the date of posting. Notices sent by Federal Express, United Postal Service, or other similar services shall be considered hand deliveries.

SECTION TWO: CONTRACT TERM

A. The Engineer's responsibility to provide services under this Agreement commences with the award of this contract for design and bidding phase services and terminates at the issuance to the Owner of a final invoice for Payment of Services.

SECTION THREE: SCOPE OF SERVICES

A. The Engineer shall provide Design and Bidding Phase services for the Project. The Services to be provided by the Engineer shall include, unless agreed otherwise by the parties by an amendment or supplementation of this Agreement, those identified in **Exhibit A** to this Agreement, which is incorporated by reference, as it set forth herein verbatim.

(1) Upon receipt of a notice to proceed from the Owner, the Engineer shall proceed promptly, and without delay, to furnish design phase services for the Project. The Engineer will make a good faith effort to complete Services undertaken herein in accordance with the schedule set by the Owner; however, the Engineer will not be penalized for delays beyond its control (e.g.,

control (e.g., Owner's special requirements not built into the schedule, unanticipated testing or review periods; adverse weather; unanticipated survey requirements or completion times, etc.).

(2)The Owner's agreements and obligations hereunder have been undertaken in anticipation of the orderly and continuous progress of the Project, and the Engineer's obligation to render its Services on the Project will extend for a period which may reasonably be required for the completion of the design thru bidding of said Project. If the Owner requests significant modifications or changes in the extent of the Project, the time of performance of the Engineer's services and compensation therefore shall be reasonably adjusted.

C. Attached as **Exhibit B** to this Contract is the Engineer's Personnel Chart which lists by name, job category and responsibility the Engineer's primary employees who will work on the Project. The Engineer shall provide the Services using the employees identified within **Exhibit B**. The Engineer shall promptly inform the Owner in writing of any proposed replacements, the reasons therefore, and the name(s) and qualification(s) of proposed replacement(s). The Owner shall have the right to reject any proposed replacement.

D. The Engineer's duties shall include the following:

(1)The Engineer shall provide Services, plans and documents of professional quality, technical accuracy, and timely completion. The Engineer shall perform all Services and prepare all documents in accordance with requirements of governmental agencies having jurisdiction over a project.

(2)The Engineer shall provide and coordinate all design, design modifications, drawings, specifications, reports and other services which are the responsibility of the Engineer under this Contract. Approval by the Owner, the Federal Aviation Administration (FAA), the Virginia Department of Aviation (VDOA) or the County of Albemarle, Virginia, of any drawings, designs, specifications, reports and incidental engineering services, work or materials furnished under this Contract shall not in any way relieve the Engineer of responsibility for the technical accuracy of the Engineer's work.

(3)The Engineer shall render Services in accordance with generally accepted professional practices, as indicated by the intended use of a particular project.

(4)The Engineer shall cooperate and communicate with the Owner and all other persons or entities required for satisfactory completion of a project. The Engineer shall provide documents to the Owner for review in accordance with applicable schedule requirements and with sufficient lead time to allow the Owner a reasonable time for review. The Engineer shall promptly make additions, changes and corrections to any documents prepared by the Engineer, as may be necessitated by any errors or omissions in the Engineer's performance of its Services.

(5)When requested to do so by the Owner, the Engineer shall process documents and provide reasonably required drawings, services and certifications as necessary to enable the Owner to obtain funding or insurance for the project. The Engineer shall process documents and provide other reasonably required Services necessary (i) to obtain construction and other required approvals, permits and certificates of occupancy for a project, and (ii) to document that the

Engineer's Services and work product comply with requirements of governmental agencies having jurisdiction over a project.

E. When the Engineer is required to provide any construction cost estimate(s) to the Owner for a particular project (other than the cost of its own Services), it is acknowledged and understood that, since the Engineer has no control over the cost of labor and materials, or over competitive bidding market conditions, the estimates of construction cost provided by the Engineer are made on the basis of experience and qualifications, and constitute only the opinion of the Engineer. The Engineer does not guarantee the accuracy of such estimates as compared to (i) contractor's bids received by the Owner for a particular construction project, or (ii) actual costs incurred by the Owner.

F. The Engineer has not been retained or compensated to provide design and construction review services relating to any contractor's safety precautions or to the means, methods, techniques, sequences, or procedures required for any contractor to perform work (but not relating to a final or completed structure). Omitted services include, without limitation: shoring, scaffolding, underpinning, temporary retainment of excavations, erection methods, temporary bracing, etc.

SECTION FOUR: ENGINEER'S COMPENSATION

A. The Engineer's compensation for Services rendered under this Contract shall be in accordance with **Exhibit C** to this Agreement, which is incorporated by reference, as it set forth herein verbatim, unless agreed otherwise by the parties by an amendment or supplementation of this Agreement

B. Once per calendar month the Engineer shall submit an invoice to the Owner requesting payment for Services rendered during the preceding calendar month. The format of the invoice shall be satisfactory to the Authority, in its sole discretion. The amount of each monthly payment requested shall be based upon the percentage of Services completed as of the date of the invoice. The Engineer's invoice shall describe with reasonable particularity each service rendered, the date thereof, the time expended, and the person(s) rendering such service. The Engineer's invoice shall be accompanied by receipts, invoices or other documentation, as the Owner may require, establishing the amount of the expenses for which reimbursement or payment is sought.

(1) Each invoice shall bear the signature of the Engineer's authorized representative, whose signature shall constitute the Engineer's representation to the Owner that the services indicated in the invoice have reached the level stated, have been properly and timely performed as required herein, that the expenses included in the invoice have been reasonably incurred in accordance with the Contract, and that the amount requested is currently due and owing, there being no reason known to the Engineer that payment of any portion thereof should be withheld.

(2) Submission of the Engineer's invoice for final payment shall further constitute the Engineer's representation to the Owner that, upon receipt by the Owner of the amount invoiced, all obligations of the Engineer to others, including its consultants, incurred in connection with the Project, will be paid in full.

(3) In the event that any invoice contains a defect or impropriety that would prevent payment by the required payment date, the Owner shall notify the Engineer's authorized representative in writing of such defect or impropriety. In the event that the Owner becomes credibly informed that any representations of the Engineer as set forth in the paragraph preceding above are wholly or partially inaccurate, the Owner may withhold payment of sums then or in the future

otherwise due to the Engineer until the inaccuracy, and the cause thereof, is corrected to the Owner's satisfaction.

C. Payment of the Engineer's invoice shall be due and owing within thirty (30) days after the Engineer's submission of a monthly invoice; however, when a project is funded by a federal or state grant the Owner may postpone payment of the invoice for a reasonable period of time beyond 30 days while awaiting the receipt of the grant funds. Nothing set forth in this paragraph is intended by the parties to create any contingency contract, nor shall it be construed as such.

(1) No deductions shall be made from the Engineer's compensation on account of any penalty, liquidated damages or other items withheld from payments to any construction contractor(s). Interest shall accrue at the rate of one percent (1%) per month, on any amounts which remain unpaid for thirty (30) days following the date a payment is due.

(2) No interest shall accrue when payment is delayed due to (i) a dispute between the Owner and the Engineer as to the accuracy or completeness of any request for payment received, or (ii) a delay in the Owner's receipt of federal or state grant funds. This exception to the accrual of interest shall apply only to that portion of a delayed payment which is actually the subject of the dispute or which is subject to federal/state reimbursement, and shall apply only for the duration of such disagreement or delay in the Owner's receipt of grant funds.

(3) Subject to the foregoing, if the Owner fails to make monthly payments due the Engineer, the Engineer may, after giving seven (7) calendar days' advance written notice to the Owner, suspend Services under this Contract.

D. Time charged to the Project by the Engineer shall include the time that the applicable employees are engaged in actual engineering or other Services required by this Contract for the Project, whether such services are performed at the Engineer's office(s), at the site of a project, or while in travel status in connection with a project. Charges will not be made to the Project during periods of sickness, vacation or at any other times when the Engineer's assigned personnel and employees are not engaged in the provision of Services for a project. Only such personnel and employees as are necessary and required to accomplish the Services in keeping with a prescribed project schedule shall be assigned by the Engineer to any project.

E. If the Project is delayed or if the Engineer's services for a Project, once commenced, are delayed or suspended for more than six (6) months for reasons beyond the Engineer's control, the Engineer may, after giving seven (7) days' advance written notice to the Owner, terminate this Contract, and the Owner shall compensate the Engineer for Services rendered prior to the date of termination.

F. If construction plans are completed in accordance with criteria and decisions made by the Owner, the FAA, the DOAV, or any other governmental authorities whose approval(s) may be required, and then said construction plans are substantially changed or revised for a reason other than the fault of the Engineer in preparing such plans, then the Engineer shall be entitled to compensation for rendering the services necessary to complete the changes. Compensation for such services shall be negotiated and agreed to by and between the Engineer and the Owner prior to the commencement of such services by the Engineer.

G. The Owner will compensate the Engineer for any Extra Work (engineering services resulting from significant changes in the general scope of a Project or its design, including, without limitation:

changes in size, complexity, schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract documents, preparation of documents for separate bids, etc.), when Extra Work is required due to causes beyond the Engineer's control and when such Extra Work is requested or authorized by the Owner. Compensation for Extra Work shall be negotiated and agreed to by and between the Engineer and the Owner prior to the commencement of any such Extra Work by the Engineer.

H. The payment and performance obligations of the Owner under this Contract, beyond the initial fiscal year of this Contract, are expressly conditioned upon the availability and appropriation by the Owner of public funds therefore in each subsequent fiscal year. When public funds are not appropriated or are otherwise unavailable to support continuation of performance by the Owner in a subsequent fiscal period, this Contract and the Owner's obligations hereunder shall automatically expire, without liability or penalty to the Owner. Within a reasonable time following the Owner's adoption of a fiscal year budget, the Owner shall provide the Engineer with written notice of any non-appropriation or unavailability of funds affecting this Contract.

SECTION FIVE: SUBCONTRACTS AND ASSIGNMENT

A. This Contract may not be assigned by the Engineer without the prior, express written consent of the Owner.

B. If any of the Services are proposed by the Engineer to be furnished by an individual or entity outside the Engineer's organization, then the Engineer shall notify the Owner of such proposal, and the Engineer shall give the Owner an opportunity to review proposal(s) and contract(s) between the Engineer and the outside individual or entity, outlining the services to be performed and the charges for the services. The Owner shall not be required to accept the performance of Services from any individual or entity other than the Engineer unless the Owner has expressly agreed, in advance, after having an opportunity to review the proposed arrangements. Under no circumstances shall the Owner be required to accept performance of any Services under any contract or other agreement which does not impose upon the contracting individual or entity the same terms and conditions as this Contract or an amendment hereto (including, without limitation, the specified fees and time for performance for a particular project).

SECTION SIX: RECORD KEEPING

The Engineer shall maintain books, records, documents and other materials directly pertinent to the Services provided under this Contract in accordance with generally accepted accounting and engineering principles and practices. The Owner, the FAA, the DOAV, the Comptroller General of the United States, and any of their duly authorized representatives shall have access to all books, documents, papers, records, and other materials which are directly pertinent to this Contract or any project with respect to which Services are rendered by the Engineer, for the purpose of examination, audit, inspection, copying, excerpts and transcriptions. Records required to be maintained under this paragraph shall be kept and maintained so as to be available during the Engineer's performance of any Services under this Contract, and for a period of six (6) years after the Project Completion Date or earlier termination date of this Contract, or for any longer period of time as may be required by applicable law or standard engineering practice.

SECTION SEVEN: REQUIRED INSURANCE

A. The Engineer, at its sole expense, and prior to commencing any Services under this Contract, shall secure from a company or companies licensed or authorized to do business in the Commonwealth of Virginia, the following types of insurance, to insure against claims and damages which may arise out of or result from the performance or non-performance of services under this Contract by the Engineer or by anyone directly or indirectly employed by the Engineer, and by anyone for whose acts the Engineer may be legally liable: **(a)** professional liability insurance, including contractual liability, with coverage in an amount not less than \$1,000,000 per claim, **(b)** commercial general liability insurance (including product/completed operations, contractual liability, and independent contractors) with a limit of not less than \$1,000,000 per occurrence / \$2,000,000 per year, and naming the Owner and Owner's officers, employees and agents as additional insureds; and **(c)** workers' compensation coverage as may be required pursuant to the provisions of Chapter 8 (§65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended. (together, (a), (b) and (c) set forth the "Required Insurance" for this Contract).

B. The Engineer shall maintain the Required Insurance in effect throughout the Initial Term and any renewal term(s) of this Contract and for a period of three (3) years following the expiration of any term or any earlier date on which the Contract is terminated. Upon receipt of any notice, verbal or written, that the Required Insurance is subject to cancellation, the Engineer shall immediately (within one business day) notify the Owner. The Engineer's failure to comply with any of the requirements of this Section shall constitute a material breach of this Contract, entitling the Owner to terminate the Contract. The Engineer shall not allow any subcontractor to perform any engineering Services in connection with an airport development project unless the subcontractor has obtained, and continues to maintain for the duration of such work or services, the same Required Insurance described in this section.

C. Simultaneously with its execution of this Contract, the Engineer shall provide the Owner with one or more certificate(s) of insurance confirming the Required Insurance, signed by a person authorized by the insurance company to bind it to the representations contained therein, or other evidence of the Required Insurance satisfactory to the Owner. These certificates shall be provided to the Owner by the Engineer upon execution of this Contract, then again (without demand by the Owner) on or before the expiration date of any policy, and upon each anniversary of the Commencement Date of this Contract. Also, a certificate of insurance shall be provided to the Owner by the Engineer at other times throughout the Term of this Contract, within ten days of any request by the Owner. Upon demand by the Owner, the Engineer shall furnish the Owner with copies of the Engineer's insurance policies.

SECTION EIGHT: INDEMNIFICATION

A. General Indemnity. The Engineer shall assume, and shall indemnify and hold the Owner harmless from and against any and all liability, loss, claim, suit, damage, charge or expense, including without limitation reasonable attorney fees and other legal expenses, which the Owner may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person (including, without limitation, the Owner's officers, agents, employees, licensees and invitees) and for damage to, loss of, and destruction of any property whatsoever, which arises out of, results from, any negligent act, negligent omission or willful misconduct of the Engineer and any of the Engineer's subcontractors, employees or other persons for whose acts or omissions the Engineer is held legally liable, in the performance of the Engineer's obligations under this Contract.

B. Intellectual Property Indemnity. If the Engineer has reason to believe that the use of a required design, process or product would constitute an infringement of a patent, the Engineer shall promptly provide such information to the Owner. To the fullest extent permitted by law, the Engineer shall protect, hold harmless and indemnify the Owner from and against any and all liability, loss, claims, demands, suits, costs, fees and expenses (including reasonable fees and expenses of attorneys, expert witnesses and other consultants), for infringement of patent rights, copyrights, or other intellectual property rights, except (i) with respect to designs, processes or products of a particular manufacturer expressly required by the Owner in writing, and (ii) infringements about which Engineer timely notified the Owner as required above.

SECTION NINE: OWNERSHIP AND USE OF DOCUMENTS

A. Master documents (original drawings, estimates, specifications, field notes and data), other than construction plans and documents, will be considered instruments of Service provided by the Engineer, and shall be and remain the property of the Engineer subject to an unconditional right and license of the Owner to utilize copies of those documents for its own purposes, free of any retention rights and claims of copyright, trade secret or other proprietary rights with respect to such documents. All other documents, information and electronic media prepared by Engineer in the performance of Services under this Contract, including construction plans and documents, shall be the sole property of the Owner free of any retention rights and claims of copyright, trade secret or other proprietary rights of the Engineer.

B. No documents prepared by Engineer pursuant to this Contract are intended or represented to be suitable for reuse by the Owner, or any other person(s), on extensions of a project, or on other projects unrelated to the one for which the documents were prepared, unless specifically approved in writing by the Engineer. Any reuse, without written verification or adaptation by the Engineer for specific purposes intended, will be at the Owner's sole risk and without liability or legal exposure to the Engineer, and the Engineer shall not be liable or in any way responsible for any claims, damages, losses and expenses, including reasonable attorney's fees, arising out of or in connection with any such reuse by Owner.

C. Notwithstanding the foregoing, it is understood and acknowledged by the Engineer that the purpose of this Contract is to obtain work product that is usable by the Owner for the public purposes contemplated within this Contract, and that all of the Owner's contracts and public records (as such term is defined within Virginia Code §2.2-3701) (together, "documents") are open to inspection by any citizen or interested person, firm or corporation in accordance with the Virginia Freedom of Information Act, §2.2-3700 et seq. of the Virginia Code. The Owner shall have a right to make copies of any and all documents provided to it by the Engineer during performance of any Services that are the subject of this Contract, in order (i) to make use of such documents, and copies thereof, as contemplated by this Contract, (ii) to make any other fair use of documents and copies thereof, and (iii) to allow inspection and copying of such documents by an individual making a request under the Virginia Freedom of Information Act ("FOIA").

SECTION TEN: OWNER'S RESPONSIBILITIES

The Owner's responsibilities under this Contract shall be as follows:

A. The Owner will provide to the Engineer any criteria, and design and construction standards of which Owner is aware, and full information as to the Owner's requirements for the Project.

B. The Owner will furnish to the Engineer, for the project:

1. existing drainage, survey, record drawings, maps, soil data and layout data in Owner's possession or control;
2. laboratory tests, air and water pollution tests, and reports and records of inspections of samples, materials, or other items required by law or by any governmental authorities having jurisdiction over a project, to the extent Owner is aware of and has access to such;
3. data prepared by others, or the services of others, including, without limitation: core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment, appropriate professional interpretations of all of 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 any other special data or consultations not covered as part of the Engineer's Services or obligations under this Agreement. The Engineer may rely on the data provided pursuant to this paragraph in performing its Services;
4. services and information which are the Owner's obligation under this Agreement, at the Owner's expense and in such manner that the Engineer may rely upon them in the performance of the Services;
5. access to enter upon all property required for the performance of the Engineer's Services for a project in accordance with Transportation Security Administration Regulations (TSAR) 1542;
6. written authorization to the Engineer to proceed with Services for a specific project. In the event that the Services for a project will extend through more than one phase of a project, then promptly after completion of an immediately preceding phase the Owner shall furnish written authorization for the Engineer to proceed to the next phase.

C. The Owner will provide and obtain legal, accounting, and insurance counseling services as may be necessary for a project, legal review of construction contract documents, and such auditing services as the Owner may require accounting for expenditures of sums paid to the Engineer and others.

D. The Owner will obtain bids or proposals from contractors for work relating to a project, subject to the Engineer's Services to be provided during the bidding and design of a project, and the Owner shall bear all costs relating thereto.

E. The Owner will give prompt notice to the Engineer whenever the Owner observes or otherwise becomes aware of any defect in the Project or other event which may substantially affect the Engineer's performance of services under this Contract.

F. The Owner will examine all submittals, studies, reports, sketches, drawings, specifications, proposals and other documents presented by the Engineer for the Owner's review, within a reasonable time so as not to delay the Services of the Engineer.

G. The Owner will protect and preserve all survey stakes and markers placed at a project site prior to assumption of this responsibility by a contractor, and the Owner shall bear all costs of replacing stakes or markers damaged or removed during such time interval.

H. The Owner shall compensate the Engineer for Services rendered, subject to and in accordance with all applicable terms and conditions set forth within this Contract.

I. The Owner will require, as part of the construction contract documents for an airport development project on which the Engineer is providing any Services:

(1) That the construction contractor submit evidence of general liability insurance coverage (including completed operations coverage), (i) covering damages arising out of bodily injury, sickness or death, and property damage, including, without limitation, explosion, collapse, and underground exposures, and (ii) including as additional insured parties the following individuals or entities: the Owner, Engineer and their officers, officials, employees and agents; and

(2) That the construction contractor will indemnify and hold the Owner and Engineer, and their officers, officials, employees and agents, harmless from and against any and all liability, claims, losses or damage arising out of the contractor's (and subcontractors') negligence in the performance of any work on a project; and

(3) That the construction contractor will include in its general liability insurance policy sufficient coverage to insure the contractual indemnification required pursuant to sub-paragraph (2), above.

SECTION ELEVEN: TERMINATION OF CONTRACT BY OWNER

Pursuant to 49 CFR Part 18.36(i)(2),

a. 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 shall 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.

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

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

d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.

e. 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.

A. This Contract may be terminated by the Owner at any time upon at least seven (7) days' advance written notice to the Engineer. Upon the request of the Engineer, the Engineer shall be given an opportunity to consult with the Owner during the 7-day notice period prior to termination. In the event of such a termination, the Owner shall pay the Engineer for Services rendered prior to the termination date as specified above. In the event of a termination by Owner, the parties will establish, in writing, a timetable and other terms and conditions for the completion of the Engineer's Services on any outstanding project(s) and for winding up any other outstanding business between them.

B. Upon receipt of a termination notice, the Engineer shall promptly discontinue Services (unless the notice directs otherwise) and the Engineer shall deliver or otherwise reasonably make available to the Owner copies of all data, drawings, specifications, reports, estimates, summaries and such other documents, information and materials as may have been accumulated by the Engineer in the performance of Services under this Contract, whether such items have been completed or are works-in-progress.

SECTION TWELVE: TERMINATION OF CONTRACT BY ENGINEER

This Contract may be terminated by the Engineer, for the Owner's substantial failure to perform its obligations under this Contract, upon seven (7) days' advance written notice provided by the Engineer to the Owner. The Engineer's notice shall set forth in detail the manner in which the Engineer contends that the Owner has failed to perform any obligation(s) under this Contract. In the event that the Owner cures the specified non-performance within the notice period, the termination shall not take effect.

SECTION THIRTEEN: MISCELLANEOUS

A. No Discrimination by Engineer.

(1) Pursuant to the Commonwealth of Virginia Public Procurement Act, the Engineer shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Engineer. The Engineer shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Engineer, in all solicitations or advertisements for employees placed by or on behalf of the Engineer, shall state that such Engineer is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirement of this section. The Engineer shall include the provisions of this paragraph in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

(2) Pursuant to the CIVIL RIGHTS ACT OF 1964, TITLE VI – CONTRACTOR CONTRACTUAL REQUIREMENTS, the Engineer ("contractor") agrees that during the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1.1 Compliance with Regulations. The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation

(hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

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

1.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

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

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

- a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

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

(2)The Engineer shall not discriminate on the basis of race, color, national origin, or sex in the performance of Services under this Contract. The Engineer shall carry out applicable requirements of 49 C.F.R. Part 26, and the Engineer's failure to do so shall constitute a material

breach of this Contract which may result in the termination of this Contract by Owner or such other remedy as may be available to the Owner, at law or in equity. The Engineer shall submit documentation of compliance with the requirements of 49 C.F.R. Part 26, or documentation that such requirements do not apply to Engineer, each time the Engineer's Services are engaged for a specific project.

B. Modification of Contract.

(1) This Contract may be supplemented, modified, or amended only by the mutual agreement of the parties hereto, set forth in writing. No supplement, modification or amendment shall be enforceable unless set forth within a writing signed by both the Owner and the Engineer.

(2) Notwithstanding the foregoing, no fixed price contract may be increased by more than ten percent (10%) of the amount of the Contract without the advance approval of the Owner's governing board, and under no circumstances may the amount of this contract be increased, without adequate consideration, for any purpose (including, but not limited to, relief of the Engineer from the consequences of an error in a bid or offer submitted by it to the Owner).

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

The contractor assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure 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. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) 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 (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, 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.

C. Drug-Free Workplace

During the performance of this contract the Engineer agrees as follows: (i) to provide a drug-free workplace for its employees; (ii) to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Engineer's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Engineer that the Engineer maintains a drug-free workplace. For the purposes of this paragraph, "drug-free workplace" means a site for the performance of work done in connection with the contract awarded to the Engineer in accordance with this procurement transaction, where the Engineer's employees are prohibited from engaging in the unlawful manufacture, sale distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of services in connection with the contract.

D. Disadvantaged Business Enterprises

Pursuant to 49 CFR Part 26, the Engineer ("contractor") agrees as follows:

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 seven days from the receipt of each payment the prime contractor receives from the Authority. The prime contractor agrees further to return retainage payments to each subcontractor within seven 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 Authority. This clause applies to both DBE and non-DBE subcontractors.

E. Lobbying and Influencing Federal Employees

Pursuant to 49 CFR Part 20, Appendix A:

(1) No Federal appropriated funds shall be paid, by or on behalf of the contractor, 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 the making of any Federal grant and the amendment or modification of any Federal grant.

(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 any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

F. Access to Records and Reports

Pursuant to 49 CFR Part 18.36(i), the Engineer shall maintain an acceptable cost accounting system. The Engineer 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 the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Engineer 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.

G. Breach of Contract Terms

Pursuant to 49 CFR Part 18.36(i)(1), any violation or breach of terms of this contract on the part of the Engineer or their 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 shall

be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

H. Rights to Inventions

Pursuant to 49 CFR Part 18.36(i)(8), all rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

I. Trade Restriction Clause

Pursuant to 49 CFR Part 30.13, the Engineer or their subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms 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 Engineer 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 Engineer may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The Engineer 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 Engineer 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.

J. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Pursuant to 49 CFR Part 29, the Engineer certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Engineer or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

K. Governing Law

This Contract shall in all aspects be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia. Any and all litigation concerning this Contract shall be commenced and prosecuted within the local, state or federal court(s) presiding over the geographic area in which the Project is located.

L. Dispute Resolution

If the parties to this Contract cannot resolve any dispute, claim, question, or dispute through mutual discussion, then, as a condition precedent to litigation, the parties shall in good faith participate in private, non-binding facilitative mediation. All parties to mediation shall, in a manner consistent with the discovery provisions of the Rules of the Supreme Court of Virginia, promptly provide all other parties to the mediation with copies of documentation relevant to the support or defense of the matter being mediated. The parties shall not be required to mediate for a period longer than ninety (90) calendar days, unless otherwise agreed in writing. The parties shall share equally any administrative costs and fees of such proceedings, but shall each be responsible for their individual expenses (e.g., attorneys' fees, expert opinions, etc.) otherwise incurred. In the event that a statute of limitations would run during the required mediation period, either party may institute litigation so as to avoid the running of such statute, upon the condition that such party immediately seeks a stay of such litigation pending the conclusion of the mediation period. During the course of mediation, any party to the mediation may apply for injunctive relief from any court of competent jurisdiction until the mediation period expires or the dispute is otherwise resolved.

M. Force Majeure

Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other.

N. No Waivers

No failure on the part of the Owner to enforce any of the terms or conditions set forth in this Contract shall be construed as or deemed to be a waiver of the right to enforce such terms or conditions. No waiver by the Owner of any default or failure to perform by the Engineer shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance or payment of any rentals, fees and/or charges by the Owner, and/or the performance of all or any part of this Contract by the Owner, for or during any period(s) following a default or failure to perform by the Engineer, shall not be construed as or deemed to be a waiver by the Owner of such default or failure, or of any other rights hereunder.

O. Severability

In the event that any term, provision or condition of this Contract, or the application thereof to any person or circumstances, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract, and the application of any term, provision or condition contained herein to any person or circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby.

P. Headings

Section, article and paragraph headings contained within this Contract have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this Contract.

Q. Binding Effect

The terms, provisions and conditions of this Contract shall bind and inure to the benefit of the respective parties hereto and to their representatives, successors, and (where permitted by this Contract) their assigns.

R. Conflicting Documents

In the event of a conflict between the provisions of this Contract document and the contents of any exhibit, addendum or attachment which is attached and/or incorporated herein by reference, the provisions of this Contract document shall govern the agreement between the parties.

S. No Collusion

The Engineer's Certification is attached to this Agreement as Exhibit D, which Exhibit is incorporated herein by reference.

T. Entire Agreement

This Contract represents the entire agreement between the parties, for the services described herein, and there are no other agreements or understandings between the parties, either verbal or written, which have not been incorporated herein.

IN WITNESS WHEREOF, the parties do hereby set forth their signatures, representing that the individuals who affix their signatures hereto have been duly authorized to bind each party to the terms and conditions of the foregoing Agreement:

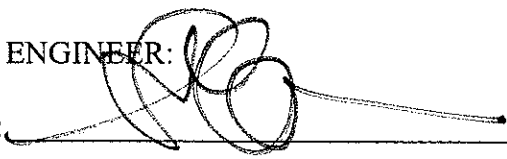
OWNER:

By: _____

Print Name: _____

Title: _____

ENGINEER:

By:  _____

Print Name: Susan E. Winslow, P.E.

Title: Vice President

Attachments:

Exhibit A: Scope of Services and Duties

Exhibit B: Engineer's Personnel Chart

Exhibit C: Engineer's Compensation Schedule

Exhibit D: Certification of Engineer

EXHIBIT A

To Agreement for Professional Services Charlottesville-Albemarle Airport Authority Scope of Services

ARTICLE ONE: BASIC SERVICES

1.2. Design Phase Upon receipt of the Owner's authorization to proceed with the Design Phase, the Engineer shall provide the following Services:

1.2.1. Attend meetings with the Owner and/or other agencies involved in the Project.

1.2.2. Prepare final Design Documents, including design criteria, drawings, and contract specifications consistent with FAA, VDOA and all other federal, state and local legal requirements. Furnish five (5) copies of the Design Documents for the Owner's and approving authorities' review and approval. Render clarification of the design drawings and special provisions, when and if such clarification is deemed necessary.

1.2.3. Conduct in-house quality assurance review of final plans and specifications. The Engineer's in-house quality control measures will include a review of the plans and specifications by the resident project representative anticipated to be assigned to the project during the construction phase services.

1.2.4. Prepare an Engineer's Report in accordance with FAA criteria, which report shall include, but not necessarily be limited to: analysis and reasons for particular design choices, and analysis of the manner in which work on the Project will be accomplished.

1.2.5. Prepare a statement of the Engineer's Opinion of the Construction Cost for the Project based upon design established to this point. Advise the Owner of any adjustments to previous Engineer's Opinion of the Construction Cost when changes in requirements, general market conditions or other conditions so warrant.

1.2.6. Advise Owner of necessary special services (e.g., soil borings, laboratory tests, surveys, etc.) and assist the Owner in evaluating and selecting contractors to provide such services.

1.2.7. Furnish to the Owner engineering data and documents so that the Owner may secure approval from governmental authorities having jurisdiction over the Project. Prepare engineering data, where necessary, for regulation permit application(s) required by local, state, or federal authorities.

1.2.8. Perform additional services as required by any supplements to the Basic Agreement between the Owner and the Engineer.

1.2.9. Prepare and assist the Owner with Bid Alternates.

1.3. Bidding Phase Upon the Owner's approval of the final Design Documents and Opinion of Construction Cost, and authorization to proceed with the Bidding Phase, the Engineer shall provide the following Services:

1.3.1. Prepare the contract documents, including invitations for bids or requests for proposals (as may be applicable), notice to bidders, final drawings, final contract specifications, general conditions, supplementary conditions, instructions to bidders and such other documents as may be required to complete the Construction Contract Documents. The Contract documents shall be prepared for review and approval by Owner, Owner's legal counsel and other advisors, consultants or governmental authorities, as may be necessary or desired by Owner. Except where otherwise noted herein, the Engineer shall provide to the Owner two (2) copies of the completed contract documents.

1.3.2. Assist the Owner in advertising for and obtaining bids or proposals for each prime contract and, where applicable, maintain a record of prospective bidders or offerors to whom bid or proposal documents have been issued.

1.3.3. Issue addenda, as appropriate, to interpret, clarify, modify or expand the Contract documents.

1.3.4. Conduct a pre-bid meeting for potential bidders or offerors for a Project.

1.3.5. Assist the Owner in evaluating bids or proposals received, assist the Owner with tabulations of bids, furnish recommendations in connection with award of a contract for a Project.

1.3.6. Perform additional services as required by any supplements to the Basic Agreement between the Owner and the Engineer.

EXHIBIT B

To Agreement for Design Professional Services Charlottesville Albemarle Airport Authority

Engineer's Personnel Chart

Principal

Charles D. Lamb, PE
Courtney A. Beamon, PE

Facility Manager/Lead Project Manager

Susan E. Winslow, PE

Project Manager/Registered Professional

Kenneth W. Brammer, PE
Robert B. Chapman, PE
William M. Eschenfelder, PE
Matthew W. Kundrot, PE
Edward F. Cutright, P.E.
Royall G. Lewis, AAE
John C. Longnaker, PE
Jon M. McCalmont, PE
Kenneth W. Moody, PE
Douglas E. Sander, PE
Tracy J. Saunders, PE
Nicole E. Manke, PE
Sarah R. Tanner, PE
Mary Ashburn Pearson, AICP

Design Professional (Engineer/Planner/Architect)

Neil D. Shifflett
John D. Borgie, PE
James R. Sides
Joseph R. Shell
Seth P. Katz, EIT
Craig Simpson, EIT
Greg Rogers

Project Production/Administration

Angela N. Jackson
Jessica Michael
Pamela J. Wise
Amy M. Ferrell
Kimberly A. Marcia

Field Representative

J. Chris Jefferson
C. Stephen Ross
W. Mark Hudgens

EXHIBIT C

To Agreement for Design Professional Services
Charlottesville-Albemarle Airport Authority

Engineer's Compensation Schedule

**ATTACHMENT X-2
FEE SUMMARY**

Design and Bidding Phase Services

Project Title: Airport Triturator
Airport Name: Charlottesville-Albemarle Airport
Airport Location: Charlottesville, VA

Delta Airport Consultants, Inc.

AIP Project No. _____ Non-AIP
State Project No. _____ Pending
Delta Project No. VA 15025

Date: January 12, 2015

Delta Costs - Design & Bidding		
	Basic Services	
	Schematic Design Phase (SD)	\$6,580
	Design Development Phase (DD)	\$27,890
	Construction Document Phase (CD)	\$34,830
	Bidding Phase Services (BD)	\$9,290
	Subtotal:	\$78,590
	Special Services	
	Project Administration	\$5,410
	Subtotal:	\$5,410
Design Lump Sum:		\$84,000

TOTAL:	\$84,000
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EXHIBIT D
To Agreement for Design Professional Services
Charlottesville-Albemarle Airport Authority

Certification of Engineer

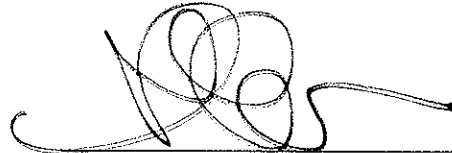
I hereby certify that I am the Vice President and duly authorized representative of the firm of Delta Airport Consultants, Inc. whose address is 9711 Farrar Court, Suite 100 Richmond, Virginia, 23236 and that neither I nor the above firm I here represent has:

- a. employed or retained for a commission, percentage, brokerage contingent fee, or other consideration, any firm or person, (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract;
- b. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or
- c. paid or agreed to pay any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this contract; except as here expressly stated (if any): none.

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation in connection with this contract involving participation of Airport Improvement Program (AIP) funds and is subject to applicable State and Federal laws, both criminal and civil.

1/13/2015

Date



Susan E. Winslow, P.E.
Vice President