

## AGREEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ 2017, by and between the CITY OF VENICE, FLORIDA, a Municipal Corporation ("OWNER") and, **American Infrastructure Development**, whose address is **3810 Northdale Blvd., Suite 170, Tampa, FL 33624** ("CONSULTANT").

WHEREAS, pursuant to Request for Qualifications #3057-17, the OWNER has advertised for professional services, which will consist of Engineering and Consulting Services ("Services") for Venice Municipal Airport, which are deemed necessary or desirable by OWNER.

WHEREAS, pursuant to Section 287.055, Florida Statutes (F.S.), specific federal and State of Florida requirements for airport grant projects, and the applicable procedures of the OWNER, the OWNER selected the CONSULTANT to provide said Services.

WHEREAS, the CONSULTANT is willing and able to perform such Services for the OWNER within the basic terms and conditions hereinafter set forth.

WHEREAS, the purpose of this AGREEMENT is not to authorize a specific project but to set forth certain terms and conditions which may be incorporated into subsequent "Work Assignments" for specific projects or services when required; and

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, it is hereby agreed that the CONSULTANT shall serve as the OWNER's professional representative for those Work Assignments to which this AGREEMENT applies, and will give consultation and advice to the OWNER during the performance of the Services on the terms and conditions hereinafter set forth.

OWNER shall, from time to time at its sole discretion, authorize CONSULTANT in writing to provide certain professional Services regarding a specific project (the "Project") under the terms of this AGREEMENT. Said authorization will be referred to herein as a "Work Assignment", a form for which is attached hereto as EXHIBIT A. Work Assignments will, by mutual agreement, set forth:

1. The scope of services
2. The deliverables
3. The time of performance;
4. The method and amount of compensation;
5. The provisions of Sections 1, 2, 7 and 8 of this AGREEMENT which are applicable; and
6. Any other provisions or conditions that may apply to that particular Work Assignment.

The provisions in Sections 3 thru 6 of this AGREEMENT will apply to every Work Assignment, unless otherwise agreed to in writing.

## **SECTION 1 BASIC SERVICES OF THE CONSULTANT**

### **1.1 General**

OWNER requires CONSULTANT to provide architectural, civil, geotechnical, structural, mechanical, and electrical engineering & related engineering, planning and aviation- and airport-related consulting fields for Venice Municipal Airport.

CONSULTANT shall have the capability to provide such services, as more particularly described in the Scope of Services, attached hereto as Exhibit B.

END OF SECTION 1

## SECTION 2 ADDITIONAL SERVICES OF CONSULTANT

### 2.1 General

If requested by OWNER and agreed to in a Work Assignment, CONSULTANT will furnish (or obtain from others) Additional Services, which may include, but are not necessarily limited to, the following:

2.1.1 Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project or any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 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 revisions are required by changes in laws, rules, regulations, ordinances, codes, or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond CONSULTANT's control.

2.1.4 Providing renderings or models for OWNER's use.

2.1.5 Preparing documents for alternate bids requested by OWNER for contractor(s), work, which is not executed, or documents for out-of-sequence work.

2.1.6 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 the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7 Furnishing the services of special consultants for other than Basic Services, as set forth in Section 1 herein, and providing data or services of the types described in paragraph 3.3 when OWNER authorizes CONSULTANT to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.3.

2.1.8 Services resulting from the award of more than one separate prime contract for construction, materials, equipment or services for the Project and services resulting from the arranging for performance

by persons other than the principal prime contractors of services for the OWNER and administering OWNER's contracts for such services.

2.1.9 Providing any type of property surveys or field surveys for design purposes and engineering surveys and staking to enable contractor(s) to proceed with their work; and providing other special field surveys.

2.1.10 Services in connection with change orders to reflect changes required by OWNER, if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.1.11 Services in evaluating substitutions proposed by contractor(s) following the award of a contract, and in revising drawings, plans and specifications occasioned thereby.

2.1.12 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.1.13 Services in connection with bid protests, re-bidding or renegotiating contracts for construction, materials, equipment or services.

2.1.14 Services during out-of-town travel required of CONSULTANT other than visits to the site as required by Section 1.

2.1.15 Preparing for OWNER, on request, a set of reproducible record prints of drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by contractor(s) to CONSULTANT and which CONSULTANT considers significant.

2.1.16 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 progress schedule involving services beyond normal working hours; and (5) default by any contractor(s).

2.1.17 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.

2.1.18 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.

2.1.19 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration, public hearing or other legal or administrative proceeding involving the Project.

2.1.20 Assistance in the preparation of ordinances.

2.1.21 Assistance in the preparation of agreements between the OWNER and others (including, but not limited to, other units of government, developers, districts and authorities and special legislative acts.)

2.1.22 Special studies, reports, investigations or analyses (such as soils investigations, hydrogeological studies, water quality analyses, infiltration and inflow studies), briefings documents, executive summaries.

2.1.23 Additional services in connection with the project, including services normally furnished by OWNER and services not otherwise provided for in this AGREEMENT.

## 2.2 Resident Services During Construction

2.2.1 If requested by OWNER and agreed to in a Work Assignment, a Resident Project Representative will be furnished and will act as directed by CONSULTANT in order to assist CONSULTANT in observing performance of the work of contractor(s). Such services will be paid for by OWNER as indicated in the Work Assignment.

2.2.2 The duties and responsibilities and the limitations on the authority of the Resident Project Representative and assistants will be as set forth in the Work Assignment.

2.2.3 Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative (if furnished) and assistants, CONSULTANT shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of contractor(s); but the furnishing of such Resident Project Representative will not make CONSULTANT responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for the failure of contractor(s) to perform their work in accordance with the Contract Documents.

2.2.4 If OWNER designates another person to represent OWNER at the Project site who is not CONSULTANT's agent or employee, the duties, responsibilities and limitations of authority of such other person and the effect thereof on the duties and responsibilities of CONSULTANT under this AGREEMENT will be set forth in an exhibit that is to be identified, attached to and made a part of the Work Assignment before such services begin.

END OF SECTION 2

## SECTION 3 OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1 Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards, which OWNER will require to be included in the Drawings and Specifications.
- 3.2 Assist CONSULTANT by placing at its disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- 3.3 If available, furnish to CONSULTANT, as required for performance of CONSULTANT's Basic Services (except to the extent provided otherwise in the Work Assignment to accomplish such work), data prepared by or services of others, including without limitation 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 other special data or consultations not covered in Section 2; all of which CONSULTANT may use and rely upon in performing the Engineering Services.
- 3.4 If available, provide field control surveys and establish reference points and base lines (except to the extent provided otherwise in the Work Assignment to accomplish such work) to enable contractor(s) to proceed with the layout of the work.
- 3.5 Arrange for access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.
- 3.6 Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by CONSULTANT, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.
- 3.7 Designate, in writing, a person to act as OWNER's representative with respect to the services to be rendered under this AGREEMENT if that representative is to be other than the City Manager or his authorized representative. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to materials, equipment, elements and systems pertinent to CONSULTANT's services.
- 3.8 Give prompt written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services, or any defect in the work of contractor(s).

3.9 Furnish, or direct CONSULTANT to provide necessary Additional Services as stipulated in Section 2 of this AGREEMENT or other services as required.

END OF SECTION 3

## SECTION 4 PERIOD OF SERVICE

### 4.1 Term of Agreement

This AGREEMENT shall continue in full force for a period of three (3) years from the date of signing by the OWNER. It may be renewed in two (2) one-year increments by written notice from the OWNER up to a maximum of five (5) years, or until terminated in accordance with SECTION 6.

### 4.2 Work Assignment

Each Work Assignment shall specify the Period of Service agreed to by OWNER and CONSULTANT for services to be rendered under said Work Assignment.

### 4.3 Orderly and Continuous Progress

The provisions of this Agreement and each Work Assignment (unless stated otherwise) anticipate the orderly and continuous progress of the Project(s). If specific dates or specific periods for performance are exceeded through no fault of CONSULTANT, all rates, measures, and amounts of compensation shall be subject to equitable adjustment.

END OF SECTION 4



## SECTION 5 PAYMENTS TO CONSULTANT

### 5.1 Methods of Compensation

Within each Work Assignment, the OWNER and CONSULTANT may agree on, but not be limited to, one of the following methods of compensation. If a different method of compensation is to be used, the Work Assignment will set forth the basis for such compensation.

#### 5.1.1 Hourly Rates Method

OWNER shall pay CONSULTANT for services rendered an amount based on CONSULTANT's current Hourly Rate for services rendered by principals and employees assigned to the Project (ATTACHMENT B). CONSULTANT's Hourly Rate Schedule may be amended annually upon written request by CONSULTANT to OWNER. In addition to the charges for labor, OWNER will pay for Direct Project Expenses and Special Consultants. CONSULTANT will invoice OWNER monthly.

#### 5.1.2 Lump Sum Method

For services rendered, the OWNER shall pay the CONSULTANT a lump sum fee including or excluding Direct Project Expenses and Special Consultants as mutually agreed upon and set forth in the Work Assignment. CONSULTANT will invoice OWNER monthly based upon CONSULTANT's estimate of the percentage of the total services actually completed at the time of billing, and attach a full narrative to the invoice for work performed.

### 5.2 Special Consultants

For services and direct project expenses of Special Consultants employed by the CONSULTANT to render Additional Services, the OWNER will be invoiced the amount billed to CONSULTANT thereof times a factor of 1.00. Special Consultants include, but are not limited to, aerial photogrammetrists; surveyors; laboratory testing; soils investigations, testing, and geotechnical engineering; and other services of a similar nature.

### 5.3 Direct Project Expenses

Direct Project Expenses include the actual expenses incurred in connection with the Project for: transportation and subsistence incidental thereto; obtaining bids or proposals from contractor(s); furnishing and maintaining field office facilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls; reproduction of reports, Drawings, Specifications, and similar project-related items; and other expenses of a similar nature. Owner will be invoiced the amount of actual expenses billed to CONSULTANT times a factor of 1.00. OWNER will not be charged for travel expenses between CONSULTANT's offices and Venice.

#### 5.4 Computer Services

Costs for computer services, such as microcomputer equipment and software for word processing, computer-aided drafting, and spreadsheets will not be considered Direct Project Expenses and will not be invoiced. CONSULTANT shall provide all electronic documents, reports, executive summaries, etc., in such format(s) that are compatible with OWNER's existing computer software.

#### 5.5 Payments by Owner

Monthly invoices shall be paid by OWNER in accordance with the Florida Prompt Payment Act, Sections 218.70 – .80, F.S. Further, any disputes regarding any of CONSULTANT's invoices hereunder shall be resolved in accordance with Section 218.76, F.S. CONSULTANT's invoices shall be accompanied by CONSULTANT's written description of work accomplished as described in the invoice.

#### 5.6 Late Payment

If OWNER fails to timely make any payment due CONSULTANT for services and expenses under any undisputed invoice, the CONSULTANT may, after giving seven (7) days' written notice to OWNER, suspend services under this AGREEMENT until it has been paid in full all amounts due for services and expenses. Any portion of an invoice that is disputed by the OWNER in accordance with paragraph 5.5 shall not be considered due for the purposes of this paragraph until the matter is resolved in accordance with the procedures provided herein.

#### 5.7 Overtime

Overtime premium will be paid by the OWNER only if authorized in advance for work to be performed to meet a particular deadline for which there is insufficient time to accomplish the task during normal hours, through no fault of the CONSULTANT. If overtime premium is authorized by OWNER, it shall be defined as standard hourly rates or salary and wages times 1.5 for all those overtime hours worked.

#### 5.8 Taxes

OWNER shall pay all applicable sales taxes or provide to CONSULTANT the appropriate tax exemption number.

#### 5.9 Truth-in-Negotiation Certification

In accordance with Section 287.055(5)(a), F.S., for any professional service authorized by a Work Assignment pursuant to this contract in which the fee is over \$195,000, CONSULTANT hereby certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of said Work Assignment. The original contract price set forth in said Work Assignment and any additions thereto shall be adjusted to exclude any significant sums by which the OWNER determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual

unit costs. All such adjustments shall be made within one (1) year following the end of the Work Assignment.

END OF SECTION 5

## SECTION 6 GENERAL CONSIDERATIONS

### 6.1 Termination

Except as otherwise provided herein, the following provisions regarding termination of this AGREEMENT shall apply:

**6.1.1 BREACH OF CONTRACT TERMS:** Any violation or breach of terms of these specifications on the part of the consultant or its sub-consultants 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 OWNER will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the AGREEMENT. OWNER reserves the right to withhold payments to CONSULTANT until such time the CONSULTANT corrects the breach or OWNER elects to terminate the AGREEMENT. OWNER's notice will identify a specific date by which the CONSULTANT must correct the breach. OWNER may proceed with termination of the AGREEMENT if the CONSULTANT fails to correct the breach by deadline indicated in OWNER's notice.

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.

**6.1.2 TERMINATION FOR CONVENIENCE:** The OWNER may, by written notice to the CONSULTANT, terminate this AGREEMENT for its convenience and without cause or default on the part of CONSULTANT. Upon receipt of the notice of termination, except as explicitly directed by the OWNER, the CONSULTANT must immediately discontinue all services affected.

Upon termination of the AGREEMENT, the CONSULTANT must deliver to the OWNER all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

OWNER agrees to make just and equitable compensation to the CONSULTANT for satisfactory work completed up through the date the CONSULTANT receives the termination notice. Compensation will not include anticipated profit on non-performed services.

OWNER further agrees to hold CONSULTANT harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

**6.1.3 TERMINATION FOR DEFAULT:** Either party may terminate this AGREEMENT for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the AGREEMENT. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party seven [7] days advance written notice of its intent to terminate the AGREEMENT. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this AGREEMENT.

a) **Termination by OWNER:** The OWNER may terminate this AGREEMENT in whole or in part, for the failure of the CONSULTANT to:

1. Perform the services within the time specified in this contract or by OWNER approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project;
3. Fulfill the obligations of the AGREEMENT that are essential to the completion of the Project.

Upon receipt of the notice of termination, the CONSULTANT must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the AGREEMENT the CONSULTANT must deliver to the OWNER all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

OWNER agrees to make just and equitable compensation to the CONSULTANT for satisfactory work completed up through the date the CONSULTANT receives the termination notice. Compensation will not include anticipated profit on non-performed services.

OWNER further agrees to hold CONSULTANT harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the OWNER determines the CONSULTANT was not in default of the AGREEMENT, the rights and obligations of the parties shall be the same as if the OWNER issued the termination for the convenience of the OWNER.

b) **Termination by CONSULTANT:** The CONSULTANT may terminate this contract in whole or in part, if the OWNER:

1. Defaults on its obligations under this AGREEMENT;
2. Fails to make payment to the CONSULTANT in accordance with the terms of this AGREEMENT;
3. Suspends the project for more than [180] days due to reasons beyond the control of the CONSULTANT.

Upon receipt of a notice of termination from the CONSULTANT, the OWNER agrees to cooperate with CONSULTANT for the purpose of terminating the AGREEMENT or portion thereof, by mutual consent. If OWNER and CONSULTANT cannot reach mutual agreement on the termination settlement, the CONSULTANT may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this AGREEMENT based upon the OWNER's breach of the contract.

In the event of termination due to OWNER breach, the Engineer is entitled to invoice the OWNER and to receive full payment for all services performed or furnished in accordance with this AGREEMENT and all justified reimbursable expenses incurred by the CONSULTANT through the effective date of termination action. OWNER agrees to hold CONSULTANT harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

## 6.2 Reuse of Documents

All documents including Drawings and Specifications prepared by CONSULTANT pursuant to a Work Assignment authorized under this AGREEMENT shall, upon payment in full to CONSULTANT, become property of the OWNER. Provided, however, that none of the documents or materials is intended or represented by

CONSULTANT to be suitable for reuse by the OWNER, or others on any extension of the project or on any other project. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to CONSULTANT.

### 6.3 Deliverables. Public Records

Each "Work Assignment" shall describe the number and type of Deliverables, which are to be provided by CONSULTANT to OWNER. Said Deliverables shall become a Public Record upon receipt by OWNER and OWNER shall be the custodian thereof in accordance with Florida Statutes Chapter 119 (Public Records Law).

### 6.4 Ownership of Documents

All documents, including original drawings, estimates, specifications, field notes, computer data files, and calculations, generated or obtained by CONSULTANT as a result of services rendered on behalf of OWNER pursuant to this AGREEMENT, shall be the property of the OWNER.

### 6.5 Successors and Assigns

6.5.1 OWNER and CONSULTANT each binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other party to this AGREEMENT and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this AGREEMENT.

6.5.2 Neither OWNER nor CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this AGREEMENT without the written consent of the other, except as stated in paragraph 6.5.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this AGREEMENT. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent consultants, associates and subcontractors as he may deem appropriate to assist him in the performance of services hereunder.

6.5.3 Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than OWNER and CONSULTANT.

### 6.6 Waiver

The failure or delay of any party at any time to require performance by another party of any provision of this AGREEMENT, even if known, shall not affect the right of such party to require performance of that provision or to exercise any right, power, or remedy hereunder. Any waiver by any party of any breach of any provision of this AGREEMENT shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this AGREEMENT. No notice to or

demand on any party in any circumstances shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

#### 6.7 Governing Law

This AGREEMENT is and shall be deemed to be a contract entered into and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.

#### 6.8 Severability

Wherever possible, each provision of this AGREEMENT shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this AGREEMENT be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this AGREEMENT.

#### 6.9 Section Headings

The section headings herein are included for convenience only and shall not be deemed to be a part of this AGREEMENT.

#### 6.10 Right of Third Parties

Unless expressly stated herein to the contrary, nothing in this AGREEMENT, whether express or implied, is intended to confer any rights or remedies under or by reason of this AGREEMENT on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this AGREEMENT is intended to relieve or discharge the obligation or liability of any third persons to any party to this AGREEMENT, nor shall any provision give any third persons any right of subrogation or action over or against any party to this AGREEMENT.

#### 6.11 Merger Clause

This instrument constitutes the entire AGREEMENT between the parties hereto with respect to the subject matter hereof. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this AGREEMENT. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of this AGREEMENT even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to make objection. No representations, understandings, or agreements have been made or relied upon in the making of this AGREEMENT other than those specifically set forth herein. This AGREEMENT can only be modified in a writing signed by the parties hereto and their duly authorized agents.

#### 6.12 Notices

All notices, certifications or communications required by this AGREEMENT shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified United States mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to OWNER:

City of Venice  
c/o Venice Municipal Airport  
150 Airport Avenue East  
Venice, Florida 34285  
Phone: 941-486-2711  
Fax: 941-483-5942

If to CONSULTANT:

American Infrastructure Development, Inc.  
3810 Northdale Blvd.  
Suite 170  
Tampa FL 33624

Either party may change its address for purpose of this paragraph by written notice to the other party given in accordance with the requirements of this paragraph

#### 6.13 Remedies: Attorneys' Fees and Costs.

If any civil action, arbitration or other legal proceeding is brought for the enforcement of this AGREEMENT, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this AGREEMENT, the successful prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs, and all expenses even if not taxable as court costs (including without limitation, all such fees, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorney's fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, and all other charges billed by the attorney to the prevailing party.

#### 6.14 Jurisdiction and Venue

The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this AGREEMENT occurred or shall occur in Sarasota County, Florida. Any civil action or legal proceeding arising out of or relating to this AGREEMENT shall be brought only in the courts of record of the State of Florida in Sarasota County or the United States District Court, Middle District of Florida, Tampa Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court or the right to bring an action or proceeding in any other court. Service of any court paper may be affected on such party by mail, as provided in this



AGREEMENT, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.

#### 6.15 Force Majeure

Neither party shall be responsible for damages or delays caused by Force Majeure or other events beyond the control of the party and which could not reasonably have been anticipated or prevented. For purposes of this AGREEMENT, Force Majeure includes, but is not limited to, adverse weather conditions, floods, epidemics, war, riot, strikes, lockouts, and other industrial disturbances; unknown site conditions, accidents, sabotage, fire loss or failure to obtain permits, unavailability of labor, materials, fuel, or services; court orders; acts of God; acts, orders, laws, or regulations of the Government of the United States or the several states, or any foreign country, or any governmental agency. Should Force Majeure occur, the parties shall mutually agree on the terms and conditions upon which Services may be continued.

#### 6.16 Prohibition Against Contingent Fees.

In accordance with Section 287.055(6)(a), F.S., the CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this AGREEMENT and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the OWNER shall have the right to terminate the AGREEMENT without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

#### 6.17 Mediation

The parties agree that no action shall be brought hereunder in any court unless the parties have first considered using mediation to resolve the dispute.

#### 6.18 Liability and Limitation of Liability

6.18.1 Before performing any Engineering Services under this AGREEMENT, CONSULTANT shall procure and maintain, during the life of the AGREEMENT, unless otherwise specified, insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the OWNER and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best and Company rating of no less than "Excellent": VII. No changes are to be made to these specifications without prior written specific approval by the OWNER's Risk Management Office.

6.18.2 WORKERS COMPENSATION: CONSULTANT will provide Workers Compensation Insurance, on behalf of all employees who are to provide a service under this AGREEMENT, as required under Florida Laws, Chapter 440, AND Employers Liability with limits of not less than \$100,000 per employee per accident; \$500,000 disease aggregate; and \$100,000 employee per disease.

6.18.3 COMMERCIAL GENERAL LIABILITY - including but not limited to bodily injury, property damage, contractual, products and completed operations, and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate covering all work performed under this AGREEMENT.

6.18.4 AUTOMOBILE LIABILITY including bodily injury and property damage including all vehicles owned, leased, hired and non-owned vehicles with limits of not less than \$1,000,000 combined single limit covering all work performed under this AGREEMENT.

6.18.5 PROFESSIONAL LIABILITY - with limits of not less than \$1,000,000 for professional services rendered in accordance with this AGREEMENT. CONSULTANT shall maintain such insurance for at least two (2) years from the termination of this AGREEMENT and during this two (2)-year period the CONSULTANT shall use their best efforts to ensure that there is no change of the retroactive date on this insurance coverage. If there is a change that reduces or restricts the coverage carried during the AGREEMENT, the CONSULTANT shall notify the OWNER's Administrative Services Department within thirty (30) days of the change.

#### 6.18.6 POLICY FORM

6.18.6.1 All policies, required by this AGREEMENT, with the exception of Professional Liability and Workers Compensation, or unless specific approval is given by the OWNER's Administrative Services Director, are to be written on an occurrence basis, shall name the City of Venice, its Council Members, Officers, Agents (defined as Agents in a written agreement with the OWNER), Employees and volunteers as additional insured as their interest may appear under this AGREEMENT. Insurer(s), with the exception of Professional Liability and Worker Compensation, shall agree to waive all rights of subrogation against the City of Venice, its Council Members, Officers, Agents (defined as Agents in a written agreement with the OWNER), Employees or Volunteers.

6.18.6.2 Insurance requirements itemized in this AGREEMENT, and required of the CONSULTANT, shall be provided by or in behalf of all subcontractors to cover their operations performed under this AGREEMENT. The CONSULTANT shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.

6.18.6.3 Each insurance policy required by this AGREEMENT shall:

6.18.6.3.1 Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.

6.18.6.3.2 Be endorsed to state that coverage shall not be suspended, voided or cancelled by either party except after thirty (30) calendar days' prior written notice by certified mail, return receipt requested, has been given to the OWNER's Administrative Service Department.

6.18.6.4 OWNER shall retain the right to review, at any time, coverage, form, and amount of insurance.

6.18.6.5 The procuring of required policies of insurance shall not be construed to limit CONSULTANT'S liability nor to fulfill the indemnification provisions and requirements of this AGREEMENT.

6.18.6.6 The CONSULTANT shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this AGREEMENT and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the OWNER is an insured under the policy.

6.18.6.7 Claims made policies will be accepted for professional and hazardous materials and such other risks as are authorized by the OWNER's Administrative Service Department. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two years. If provided as an option, the CONSULTANT agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.

6.18.6.8 Certificates of Insurance evidencing Claims Made or Occurrence form coverage and conditions to this AGREEMENT, as well as the OWNER's proposal/contract number and description of work, are to be furnished to the OWNER's Risk Management Office (401 West Venice Avenue, Venice, FL 34285) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. All insurance certificates shall be received by the OWNER's Administrative Service Department before the CONSULTANT will be allowed to commence or continue work.

6.18.6.9 Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this AGREEMENT, shall be provided to the CONSULTANT's insurance company and the OWNER's Administrative Service Department as soon as practicable after notice to the insured.

#### 6.18.7 Indemnity

CONSULTANT shall indemnify, defend, and hold harmless OWNER and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the AGREEMENT and any Work Assignments thereunder.

#### 6.19 Construction Cost Estimating

Any opinion of a Construction Cost prepared by CONSULTANT under this AGREEMENT shall represent its judgment as a design professional and will be supplied for the general guidance of the OWNER. Since CONSULTANT has no control over the cost of labor and material, or over competitive bidding or market conditions, CONSULTANT does not guarantee the accuracy of such opinions as compared to contractor bids or actual cost to the OWNER.

#### 6.20 Construction Job Site Conditions

The OWNER agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously

and not be limited to normal working hours. In the performance of the Engineering Services, CONSULTANT will use that degree of care and skill ordinarily exercised under similar localities.

#### 6.21 Licenses

CONSULTANT shall procure and keep in force during the term of this AGREEMENT all necessary licenses, registrations, certificates, permits and other authorizations as are required by law in order for CONSULTANT to render its services hereunder. CONSULTANT shall require all specialty consultants to comply with the provisions of this paragraph.

#### 6.22 CONSULTANT Not Agent of OWNER

The CONSULTANT is not authorized to act as the OWNER's agent hereunder and shall have no authority, express or implied, to act for or bind the OWNER hereunder, either in CONSULTANT's relations with specialty consultants, or in any other manner whatsoever except as elsewhere provided for herein.

#### 6.23 Amendment

The provisions of this AGREEMENT may not be amended, supplemented, waived, or changed orally, but only by writing making specific reference to this AGREEMENT signed by the party as to whom enforcement of any such amendment, supplement, waiver, or modification is sought. No amendment to this AGREEMENT shall be effective except those agreed to in writing and signed by both of the parties to this AGREEMENT.

#### 6.24 Accounting Records

For each project authorized by OWNER, CONSULTANT will maintain accounting records, which will include timecards, job cost records, invoices, and such other data necessary to identify project costs. Said records will be made available to OWNER's authorized financial personnel for inspection at CONSULTANT's office upon request.

#### 6.25 Validity Severability and Reformation

The validity, interpretation, construction and effect of this AGREEMENT shall be in accordance with and be governed by the laws of the State of Florida. Any provision or part thereof of this AGREEMENT held to be void or unenforceable under any law shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this AGREEMENT shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

#### 6.26 Public Records

The CONSULTANT agrees to comply with Florida's public records law by keeping and maintaining public records that ordinarily and necessarily would be required by the public agency in order to perform the Engineering Services. Upon the request of the OWNER's Custodian of Public Records, CONSULTANT shall provide the OWNER with copies of, or access to, public records on the same terms and conditions that OWNER would provide

the records and at a cost that does not exceed the cost provided by Florida law; ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of the AGREEMENT and following completion of the AGREEMENT if the CONSULTANT does not transfer the records to the OWNER; and upon completion of the AGREEMENT by transferring, at no cost, to OWNER all public records in possession of CONSULTANT or by keeping and maintaining all public records required by the OWNER to perform the Engineering Services. If the CONSULTANT transfers all public records to the OWNER upon completion of the AGREEMENT, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the AGREEMENT, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the OWNER, upon request from the OWNER's custodian of public records, in a format that is compatible with the information technology systems of the OWNER.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE OWNER'S CUSTODIAN OF PUBLIC RECORDS LORI STELZER, MMC, CITY CLERK, AT 401 WEST VENICE AVENUE, VENICE, FLORIDA 34285, (941) 882-7390, LSTELZER@VENICEGOV.COM.**

#### 6.27 Mutual Waiver of Consequential Damages

On behalf of themselves, their governing officers and employees, the parties waive all claims against each other for consequential losses or damages, and punitive damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including but not limited to losses of use, excess construction costs, alternative construction means or methods, or losses of funding.

#### 6.28 Civil Rights

##### 6.28.1 General Civil Rights Provisions

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

This provision binds the contractor and subtier 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.

##### 6.28.2 Title VI Clauses for Compliance with Nondiscrimination Requirements

#### **Compliance with Nondiscrimination Requirements**

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. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **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 subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
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 will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **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 Nondiscrimination Acts And Authorities 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.
5. **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.
6. **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 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.

### 6.28.3 Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

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

- a. Incorporate these contract provisions in each lower-tier contract;
- b. Incorporate the applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- c. Be responsible for maintaining compliance with these contract provisions; and
- d. Be responsible for compliance with these contract provisions by any lower-tier sub-consultant or service provider.

6.34 Definitions

6.34.1 "Contract" as used herein shall also mean AGREEMENT.

6.34.2 "Contractor," "offeror," or "vendor" as used herein shall also mean CONSULTANT.

6.34.3 "Department" as used herein shall also mean the Florida Department of Transportation.

6.34.4 "DOT" as used herein shall also mean the United States Department of Transportation

6.34.4 "Sponsor" as used herein shall also mean OWNER.

6.35 Contract Documents - Entire Agreement

The Contract Documents consist of this AGREEMENT, the City of Venice's Request for Qualifications #3057-17 Engineering and Consulting Services for Venice Municipal Airport (the "RFQ"), and CONSULTANT's proposal submitted in response to the RFQ, all of which are a part of this AGREEMENT and incorporated herein by reference. This AGREEMENT and the Contract Documents constitute the entire agreement of the parties and may not be changed or modified, except by a written document signed by both parties hereto.

END OF SECTION 6



## SECTION 7 SPECIAL FEDERAL CONTRACT PROVISIONS FOR AIP PROJECTS

### 7.1 CONSULTANT Responsibilities

7.1.1 For all Services related to projects funded, fully or in part, under the federal Airport Improvement Program (AIP), the CONSULTANT shall maintain compliance with these contract provisions required thereby, as may be amended from time to time, and shall be responsible for ensuring compliance by any lower-tier sub-consultant or service provider.

7.1.2 The CONSULTANT shall incorporate the applicable requirements of the AIP contract provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services funded under AIP.

7.2 AIP contract provisions include, but shall not be limited to, the following, which provisions and/or requirements may be amended from time to time:

- a. Access to Records and Reports
- b. Buy American Preferences
- c. Civil Rights – General
- d. Civil Rights – Title VI Assurances
- e. Disadvantaged Business Enterprise
- f. Energy Conservation Requirements
- g. Federal Fair Labor Standards Act
- h. Occupational Safety and Health Act
- i. Trade Restriction Certification
- j. Veteran’s Preference
- k. Seismic Safety
- l. Distracted Driving (aka Texting When Driving)
- m. Equal Employment Opportunity
- n. Prohibition of Segregated Facilities
- o. Termination of Contract
- p. Debarment and Suspension
- q. Contract Work Hours and Safety Standards
- r. Lobbying Federal Employees
- s. Breach of Contract
- t. Clean Air/Water Pollution Control

### 7.3 Access to Records and Reports

The CONSULTANT must maintain an acceptable cost accounting system. The CONSULTANT agrees to provide the OWNER, 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 CONSULTANT agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

#### 7.4 Disadvantaged Business Enterprises

7.4.1 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.

7.4.2 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 30 days from the receipt of each payment the prime contractor receives from the City of Venice. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 City of Venice. This clause applies to both DBE and non-DBE subcontractors.

7.4.3 The CONSULTANT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

7.4.4 In administering its DBE program, the CONSULTANT or subcontractor will not, directly or through contractual or other arrangements, use criteria or methods of administration that will have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex or national origin.

7.4.5 The CONSULTANT shall cooperate fully and promptly with requests for information pursuant to 49 C.F.R. Part 26.

7.4.5.1 CONSULTANT shall provide to OWNER the names and addresses of all firms providing quotes to them on subcontracts.

7.4.5.2 CONSULTANT shall provide documentation to OWNER regarding payments to subcontractors, which documentation shall include all of the information required by the OWNER to complete federal DBE reporting requirements, and which meets the requirements of the OWNER's Disadvantaged Business Enterprise Program for Venice Municipal Airport, as may be amended, revised and/or updated from time to time. Such information shall include, but not be limited to: (1) description of work; (2) subcontractor name; (3) dollar value committed at contract award; (4) estimated percentage of total contract; (5) DBE/non-DBE status; and (6) actual payment amounts, dates and check numbers (or other verifiable proof of payment, if approved by the OWNER). Such documentation shall be provided upon request by the OWNER, but no less than annually by November 1 for the twelve (12) month period ending September 30.

7.4.6 It is mutually understood and agreed that the willful falsification, distortion, or misrepresentation with respect to any facts related to work performed under this AGREEMENT is a violation of federal law. Accordingly,

United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this AGREEMENT.

#### 7.5 Energy Conservation Requirements

CONSULTANT and Sub-consultant(s) agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

#### 7.6 Trade Restriction Certification

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror -

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

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.

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

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 an Offeror or subcontractor:

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

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.

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

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

#### 7.7 Veteran's Preference

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

#### 7.8 Seismic Safety

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

#### 7.9 Texting When Driving

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

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The

Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

**7.10 NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION to ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

**Timetables**

Goals for minority participation for each trade: 10.5%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is Florida, Sarasota County, City of Venice.

## 7.11 Equal Opportunity Clause

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency 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 vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## 7.12 Prohibition of Segregated Facilities

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

## 7.13 Debarment

### 7.13.1 Certification of CONSULTANT Regarding Debarment

The CONSULTANT certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

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

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

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

## 7.14 Contract Work Hours and Safety Standards Act Requirements

### 1. 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.

## 2. Violation; Liability for Unpaid Wages; Liquidated Damages.

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

## 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner 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 moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.

## 4. Subcontractors.

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

### 7.15 Certification Regarding Lobbying

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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



- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### 7.16 Breach of Contract Terms

Any violation or breach of terms of this contract on the part of the CONSULTANT or its sub-consultants 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.

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

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.

#### 7.17 Clean Air and Water Pollution Control

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

CONSULTANT must include this requirement in all subcontracts that exceed \$150,000.

## 7.18 Buy American Preference

7.18.1 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.

A bidder or offeror must complete and submit the Buy American certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

7.18.2 In accordance with Section 7.18.1, the CONSULTANT submitted a completed Certificate of Buy American Compliance with its proposal in response to the RFQ, which is part of the Contract Documents and is incorporated herein. Upon request by the OWNER, the CONSULTANT shall complete additional Certificate(s) of Buy American Compliance in connection with any or all Work Assignments pursuant to this AGREEMENT.

## 7.19 Data Universal Numbering System (DUNS) Numbers

DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify business entities. Prior to award of any subcontract, the CONSULTANT shall provide the sub-consultant's DUNS number to the OWNER.

## 7.20 Trafficking in Persons

CONSULTANT agrees to comply with the prohibitions against trafficking in persons.

A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) that apply to any entity, other than a State, local government, Indian tribe, or foreign public entity, including private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity) are:

1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.

B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate an agreement, without penalty, if a private entity:

1. Is determined to have violated the Prohibitions; or
2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
  - a. Associated with the performance of the agreement; or

- b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” as implemented by the FAA in 49 CFR Part 29.

END OF SECTION 7

## **SECTION 8 SPECIAL FLORIDA DEPARTMENT OF TRANSPORTATION CONTRACT PROVISIONS**

8.1 For all Services related to projects under this AGREEMENT that are funded fully or in part by a grant from the Florida Department of Transportation (FDOT) the CONSULTANT is required to abide by the Special Florida Department of Transportation Contract Provisions in this section.

### 8.2 Equal Employment Opportunity

In connection with the carrying out of the project, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT shall insert the foregoing provision modified only to show the particular contractual relationship in all its subcontracts in connection with the development or operation of the project, except subcontracts for the standard commercial supplies or raw materials, and shall require all such subcontractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the CONSULTANT shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

### 8.3 Prohibited Interests

8.3.1 In connection with the project or any property included or planned to be included in the project, the CONSULTANT certifies that neither it nor any officer, director or employee of the CONSULTANT, nor any business entity of which an officer, director or employee of the CONSULTANT or any of CONSULTANT's officer's, director's or employee's spouse or child, or any combination of them, has a material interest.

8.3.2 "Material interest" means direct or indirect ownership of more than five (5) percent of the total assets of capital stock of any business entity.

8.3.3 The CONSULTANT shall not enter into any subcontract or arrangement in connection with the project or any property included or planned to be included in the project, with any person or entity who was represented before the CONSULTANT by any person who at the time during the immediately preceding two (2) years was an officer, director or employee of the OWNER. The provisions of this subsection shall not be applicable to any agreement between the CONSULTANT and its fiscal depositories, any agreement for utility services, the rates for which are fixed or controlled by the government, or any agreement between the CONSULTANT and an agency of state government.

### 8.4 Disadvantaged Business Enterprise (DBE)

#### 8.4.1 DBE Policy

The CONSULTANT and its sub-consultants shall not discriminate on the basis of race, color, national origin, or

sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT 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 OWNER deems appropriate.

#### 8.4.2 DBE Obligation

The CONSULTANT agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the equal opportunity to participate in the performance of this contract. In this regard, the CONSULTANT shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform this contract. The CONSULTANT and their sub-consultants shall not discriminate on the basis of race, color, national origin or sex in the award and performance of this AGREEMENT.

#### 8.5 Lobbying

##### 8.5.1 Federal

The Contractor agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Contractor, to any person for influencing or attempting to influence any officer or employee of any federal 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.

If any funds other than federal appropriated funds have been paid by the Contractor to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall prepare and submit FDOT Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this section be included in the award documents for all sub-awards at all tiers (including subcontracts) and that all sub-recipients shall certify and disclose accordingly.

##### 8.5.1.1 Certification Regarding Lobbying

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### 8.5.2 State

No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

#### 8.6 Access to Records

The Vendor shall allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Vendor in conjunction with any contract and/or agreement with the City. Specifically, if the Vendor is acting on behalf of a public agency the Vendor shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the Department in order to perform the services provided by the Vendor.
2. Provide the public with access to public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
4. Meet all requirements for retaining public records and transfer, at no cost, to the Department all public records in possession of the Vendor upon the termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

Failure by the Vendor to grant such public access shall be grounds for immediate unilateral cancellation of any agreement and/or contract by the Department. The Vendor shall promptly provide the Department with a copy of any request to inspect of copy public records in possession of the Vendor and shall promptly provide the Department a copy of the Vendor's response to each such request.

Termination of any agreement and/or contract as provided for in this Section shall be subject to the provisions of Section 6.1, Termination, above.

#### 8.7 Public Entity Crime

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

#### 8.8 Discrimination

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

#### 8.9 E-Verify

Vendors/Contractors:

1. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and
2. Shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

#### 8.10 Inspector General Cooperation

The contractor/consultant/vendor agrees to comply with s. 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s. 20.055(5), Florida Statutes.

#### 8.11 Copyright of Material

No material prepared in connection with a DOT-assisted project shall be subject to copyright in the United States or any other country.

#### 8.12 Indemnification

To the extent provided by law, the CONSULTANT shall indemnify, defend, and hold harmless the FDOT and the OWNER and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the CONSULTANT, its agents, or employees, during the performance of the AGREEMENT, except that neither the CONSULTANT, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the FDOT or the OWNER or any of its officers, agents, or employees during the performance of the AGREEMENT.

IN WITNESS WHEREOF, this AGREEMENT has been fully executed on behalf of the CONSULTANT by its duly authorized officers, and the OWNER has caused the same to be duly executed in its name and in its behalf by its Mayor and City Clerk, effective as of the date hereinabove written.

WITNESS

  
\_\_\_\_\_

CONSULTANT

  
\_\_\_\_\_

NAME, Title SABINA C. MOHAMMADI, President-CEO

ATTEST

CITY OF VENICE

\_\_\_\_\_  
Lori Stelzer, CITY CLERK

\_\_\_\_\_  
John Holic, MAYOR

Approved as to Form and Correctness

\_\_\_\_\_  
David Persson, City Attorney



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**EXHIBIT A**

**SAMPLE WORK ASSIGNMENT**

**WORK ASSIGNMENT NO. \_\_\_\_\_ PURSUANT TO**

**THE date of AGREEMENT BETWEEN THE**

**CITY OF VENICE, FLORIDA AND \_\_\_\_\_**

WHEREAS, on \_\_\_\_\_, 2017, the City of Venice, Florida (“OWNER”) and \_\_\_\_\_ (“CONSULTANT”), entered into an Agreement whereby the CONSULTANT would perform professional services for the OWNER pursuant to an executed Work Assignment; and

WHEREAS, the OWNER wishes to authorize the CONSULTANT to perform professional services concerning \_\_\_\_\_ as more particularly described in the Scope of Services herein; and

WHEREAS, the CONSULTANT wishes to perform such professional services,

NOW THEREFORE, in consideration of the premises and mutual covenants contained in the \_\_\_\_\_, 2017, Agreement and this Work Assignment, the parties agree as follows:

1. General description of the project.
2. Scope of services to be performed. CONSULTANT shall perform the services described in the Scope of Services attached hereto as Attachment “A”.
3. Compensation to be paid. OWNER shall pay the CONSULTANT the sum of *Number in words* (\$XXXX.XX) for performance of the professional services specified in this Work Assignment.
4. Time for completion. CONSULTANT shall complete the professional design services specified in this Work Assignment within *Number in words* (XX) days from the date of this Work Assignment, and will provide the bidding and construction phase services in accordance with the construction schedule to be determined by OWNER.
5. The terms and conditions of the \_\_\_\_\_, 2017, Agreement shall remain in full force and effect until the completion of this Work Assignment.

**IN WITNESS WHEREOF**, the parties have executed this Work Assignment on the \_\_\_ day of \_\_\_, 201\_.

CONSULTANT

\_\_\_\_\_  
NAME, Title

ATTEST

CITY OF VENICE

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## EXHIBIT B

### SCOPE OF SERVICES

#### INTRODUCTION

The City of Venice (City) requires the services of a qualified consultant(s) to provide services generally of an architectural, civil, geotechnical, structural, mechanical, and electrical engineering nature for Airport Development Projects. These services may include, but are not limited to, planning services, design services, permitting assistance, bid and proposal development services, services during construction and other services related to these systems. The City intends to retain one or more qualified consultants to provide the services for a period of three (3) years with two (2) additional one (1)-year options that may be exercised at the discretion of the City. Completion of the scope of services may extend beyond the agreement's three-year term, but no minimum amount of service or compensation will be assured to the retained consultant(s). The retained consultant(s) will be required to abide by all applicable federal, state and local laws and ordinances.

The basic services are usually conducted in, but are not limited to, the five (5) distinct and sequential phases summarized below:

**Preliminary Phase.** This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include, but are not limited to:

- Coordinating with the Sponsor on project scope requirements, finances, schedules, operational safety and phasing considerations, site access and other pertinent matters;
- Coordinating with local FAA personnel and other stakeholders to identify potential impacts to operations;
- Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations, and architectural and engineering studies required for design considerations;
- Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations, and preliminary layouts and cost estimates; and
- Preparing project design criteria and other bridging documents commonly used for alternative project delivery methods such as design-build contracting.

**Design Phase.** This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include, but are not limited to, those below:

- Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters;

- Collecting engineering data and undertaking field investigations, including performing geotechnical engineering, architectural, engineering, and special environmental studies;
- Preparing engineering reports and recommendations;
- Preparing detailed plans, specifications, cost estimates, and design/construction schedules;
- Preparing Construction Safety and Phasing Plan (CSPP); and
- Printing and providing copies of engineering drawings and contract specifications.

**Bidding and Negotiation Phase.** These activities are part of either the design or the construction phase. They involve assisting the Sponsor in advertising and securing bids, negotiating for services, analyzing bid results, furnishing recommendations on the award of contracts, and preparing contract documents.

**Construction Phase.** Except as noted above, this phase may include all basic services rendered after the award of a construction contract, including, but not limited to, the following activities:

- Providing consultation and advice to the Sponsor during all phases of construction;
- Representing the Sponsor at preconstruction conferences;
- Inspecting work in progress periodically and providing appropriate reports and documentation to the Sponsor (e.g. FAA Quarterly Reports);
- Reviewing and approving shop and erection drawings submitted by contractors for compliance with design concept/drawings and contract requirements (e.g. Buy American Preference, DBE tracking, etc.) and providing documentation to the Sponsor;
- Reviewing, analyzing, and accepting laboratory and mill test reports of materials and equipment;
- Assisting in the negotiation and/or preparation of change orders and supplemental agreements;
- Observing or reviewing performance tests required by contract specifications;
- Determining amounts owed to contractors and assisting Sponsor in the preparation of payment requests for amounts reimbursable from grant projects;
- Reviewing operations and maintenance manuals for compliance with contract documents; and
- Maintaining records for use in preparing project documentation and closeout, including, but not limited to copies of all inspection, test and system startup reports.

**Project Closeout Phase.** This phase includes all basic services rendered after the completion of a construction contract, including, but not limited to, the following activities:

- Making final inspections and submitting punch-lists and a report of the completed project to the Sponsor;
- Preparing and providing record drawings;
- Preparing summary of material testing report;
- Preparing summary of project change orders;
- Preparing grant amendment request(s) and associated justification, if applicable;
- Preparing final project reports, including financial summary; and
- Obtaining final releases of liens from all contractors/subcontractors.

**Special Services.** The development of some projects may involve activities or studies outside the scope of the basic design services routinely performed by the consultant. These special services may vary greatly in scope, complexity, and timing and may involve a number of different disciplines and fields of expertise.

Consultants performing special services may be employed directly by the Sponsor to implement one or more phases of a project or may be employed by the principal consultant via a subcontract agreement. In certain instances, these services may be performed by the principal consultant. Some examples of special services that might be employed for airport projects include, but are not limited to, the following:

- Soil investigations, including core sampling, laboratory tests, related analyses, and reports;
- Detailed mill, shop, and/or laboratory inspections of materials and equipment;
- Land surveys and topographic maps;
- Field and/or construction surveys;
- Photogrammetry surveys;
- Onsite construction inspection and/or management involving the services of a full-time or part-time resident engineer, inspector, or manager acting as a resident project representative (RPR) during the construction or installation phase of a project. This differs from the periodic inspection responsibilities included as part of the basic services, and may include, but is not limited to:
  - Acting as a liaison between the Sponsor and/or engineer and the contractor;
  - Assisting the Sponsor in obtaining required contract compliance documents from contractor and subcontractor(s);

- Observing work in progress to assist in determining whether work is generally proceeding in accordance with the contract documents and providing appropriate reports and documentation to the Sponsor and/or engineer (e.g. periodic work summaries, photographs);
  - Conducting periodic labor interviews and providing proper documentation to the Sponsor, if applicable; and
  - Participating in progress meetings, job conferences and other project-related meetings, conferences and inspections.
- Special environmental studies and analyses;
  - Wildlife consulting services;
  - Expert witness testimony in litigation involving specific projects;
  - Project feasibility studies;
  - Public information and community involvement surveys, studies, and activities;
  - Assisting the Sponsor in the preparation of necessary applications for local, State, and Federal grants;
  - Preparation or updating of the Airport Layout Plan (ALP);
  - Preparation of property and/or parcel maps;
  - Preparation of quality control plan;
  - Preparation of report(s), financial studies and analyses;
  - FTZ, management and associated tasks;
  - Evaluation and updating of guiding documents;
  - Architectural services;
  - Landscape architecture services;
  - Civil engineering services; and
  - Electrical engineering services.

**EXHIBIT C**  
**CONSULTANT'S HOURLY FEES**

**AMERICAN INFRASTRUCTURE DEVELOPMENT, INC. (AID)**  
**2017 LABOR RATES**



<b>CLASSIFICATION</b>	<b>LOADED RATE</b>
Project Principal	\$192.00
Project Manager	\$180.00
Senior Engineer/Planner	\$159.00
Engineer/Planner	\$125.00
Sr. Designer	\$96.00
Designer	\$79.00
Sr. Technician	\$72.00
Technician	\$63.00
Clerical	\$59.00

Notes:

- 1) Rates may be adjusted in January 2018



Client#: 1053893

AMERIINF3

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/17/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: USI Insurance Services, LLC, 1715 N. Westshore Blvd. Suite 700 Tampa, FL 33607. CONTACT NAME: PHONE (A/C, No, Ext): 813 321-7500 FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE: INSURER A: Travelers Indemnity Co. of Amer NAIC #: 25666 INSURER B: Travelers Indemnity Company NAIC #: 25658 INSURER C: Travelers Casualty & Surety Co NAIC #: 19038 INSURER D: XL Specialty Insurance Company NAIC #: 37885 INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liability, Workers Compensation and Employers' Liability, and Professional Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) Professional Liability coverage is written on a claims-made basis. Re: RFQ 3057-17. the City of Venice, its Council Members, Officers, Agents, Employees and volunteers are additional insureds with respect to all policies with the exception of workers compensation and professional liability as their interest may appear where required by written contract. All policies include a waiver of subrogation in favor of the City of Venice, its Council Members, Officers, Agents, Employees or Volunteers.

CERTIFICATE HOLDER: City of Venice, Florida, 401 West Venice Avenue, Venice, FL 34285. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]

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