

SECTION III – GENERAL PROVISIONS
SECTION 10
DEFINITION OF TERMS

Whenever the following terms are used in these specifications, in the contract, or in any documents or other instruments pertaining to construction where these specifications govern, the intent and meaning shall be interpreted as follows:

10-01 AASHTO. The American Association of State Highway and Transportation Officials, the successor association to AASHO.

10-02 ACCESS ROAD. The right-of-way, the roadway and all improvements constructed thereon connecting the airport to a public highway.

10-03 ADVERTISEMENT. A public announcement, as required by local law, inviting bids for work to be performed and materials to be furnished.

10-04 AIP. The Airport Improvement Program, a grant-in-aid program, administered by the Federal Aviation Administration.

10-05 AIR OPERATIONS AREA. For the purpose of these specifications, the term air operations area shall mean any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron.

10-06 AIRPORT. Airport means an area of land or water which is used or intended to be used for the landing and takeoff of aircraft; an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and airport buildings and facilities located in any of these areas, and includes a heliport.

10-07 ASTM. The American Society for Testing and Materials.

10-08 AWARD. The acceptance, by the Owner, of the successful bidder's proposal.

10-09 BIDDER. Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a proposal for the work contemplated.

10-10 BUILDING AREA. An area on the airport to be used, considered, or intended to be used for airport buildings or other airport facilities or rights-of-way together with all airport buildings and facilities located thereon.

10-11 CALENDAR DAY. Every day shown on the calendar.

10-12 CHANGE ORDER. A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for the work affected by such changes. The work, covered by a change order, shall be within the scope of the contract.

10-13 CONTRACT. The written agreement covering the work to be performed. The awarded contract shall include, but is not limited to: The Advertisement; The Contract Form; The Proposal; The

Performance Bond; The Payment Bond; any required insurance certificates; The Specifications; The Plans, and any addenda issued to bidders.

10-14 CONTRACT ITEM (PAY ITEM). A specific unit of work for which a price is provided in the contract.

10-15 CONTRACT TIME. The number of calendar days or working days, stated in the proposal, allowed for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.

10-16 CONTRACTOR. The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the work contracted and for the payment of all legal debts pertaining to the work who acts directly or through lawful agents or employees to complete the contract work.

10-17 DRAINAGE SYSTEM. The system of pipes, ditches, and structures by which surface or subsurface waters are collected and conducted from the airport area.

10-18 ENGINEER. The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for engineering inspection of the contract work and acting directly or through an authorized representative.

10-19 EQUIPMENT. All machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper construction and acceptable completion of the work.

10-20 EXTRA WORK. An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Engineer to be necessary to complete the work within the intended scope of the contract as previously modified.

10-21 FAA. The Federal Aviation Administration of the U.S. Department of Transportation. When used to designate a person, FAA shall mean the Administrator or his/her duly authorized representative.

10-22 FEDERAL SPECIFICATIONS. The Federal Specifications and Standards, Commercial Item Descriptions, and supplements, amendments, and indices thereto are prepared and issued by the General Services Administration of the Federal Government.

10-23 FORCE ACCOUNT. Force account construction work is construction that is accomplished through the use of material, equipment, labor, and supervision provided by the Owner or by another public agency pursuant to an agreement with the Owner.

10-24 INSPECTOR. An authorized representative of the Engineer assigned to make all necessary inspections and/or tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.

10-25 INTENTION OF TERMS. Whenever, in these specifications or on the plans, the words "directed," "required," "permitted," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Engineer is intended; and similarly, the words "approved," "acceptable," "satisfactory," or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Engineer, subject in each case to the final determination of the Owner.

Any reference to a specific requirement of a numbered paragraph of the contract specifications or a cited standard shall be interpreted to include all general requirements of the entire section, specification item, or cited standard that may be pertinent to such specific reference.

10-26 LABORATORY. The official testing laboratories of the Owner or such other laboratories as may be designated by the Engineer.

10-27 LIGHTING. A system of fixtures providing or controlling the light sources used on or near the airport or within the airport buildings. The field lighting includes all luminous signals, markers, floodlights, and illuminating devices used on or near the airport or to aid in the operation of aircraft landing at, taking off from, or taxiing on the airport surface.

10-28 MAJOR AND MINOR CONTRACT ITEMS. A major contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 20 percent of the total amount of the award contract. All other items shall be considered minor contract items.

10-29 MATERIALS. Any substance specified for use in the construction of the contract work.

10-30 NOTICE TO PROCEED. A written notice to the Contractor to begin the actual contract work on a previously agreed to date. If applicable, the Notice to Proceed shall state the date on which the contract time begins.

10-31 OWNER. The term "Owner" shall mean the party of the first part or the contracting agency signatory to the contract. For AIP contracts, the term "sponsor" shall have the same meaning as the term "Owner." Where the term "Owner" is capitalized in this document, it shall mean airport owner or sponsor only.

10-32 PAVEMENT. The combined surface course, base course, and subbase course, if any, considered as a single unit.

10-33 PAYMENT BOND. The approved form of security furnished by the Contractor and his/her surety as a guaranty that he will pay in full all bills and accounts for materials and labor used in the construction of the work.

10-34 PERFORMANCE BOND. The approved form of security furnished by the Contractor and his/her surety as a guaranty that the Contractor will complete the work in accordance with the terms of the contract.

10-35 PLANS. The official drawings or exact reproductions which show the location, character, dimensions and details of the airport and the work to be done and which are to be considered as a part of the contract, supplementary to the specifications.

10-36 PROJECT. The agreed scope of work for accomplishing specific airport development with respect to a particular airport.

10-37 PROPOSAL. The written offer of the bidder (when submitted on the approved proposal form) to perform the contemplated work and furnish the necessary materials in accordance with the provisions of the plans and specifications.

10-38 PROPOSAL GUARANTY. The security furnished with a proposal to guarantee that the bidder will enter into a contract if his/her proposal is accepted by the Owner.

10-39 RUNWAY. The area on the airport prepared for the landing and takeoff of aircraft.

10-40 SPECIFICATIONS. A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if included in the contract physically.

10-41 SPONSOR. See definition above of "Owner."

10-42 STRUCTURES. Airport facilities such as bridges; culverts; catch basins, inlets, retaining walls, cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures and bases; transformers; flexible and rigid pavements; navigational aids; buildings; vaults; and, other manmade features of the airport that may be encountered in the work and not otherwise classified herein.

10-43 SUBGRADE. The soil that forms the pavement foundation.

10-44 SUPERINTENDENT. The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the Engineer, and who shall supervise and direct the construction.

10-45 SUPPLEMENTAL AGREEMENT. A written agreement between the Contractor and the Owner covering (1) work that would increase or decrease the total amount of the awarded contract, or any major contract item, by more than 25 percent, such increased or decreased work being within the scope of the originally awarded contract; or (2) work that is not within the scope of the originally awarded contract.

10-46 SURETY. The corporation, partnership, or individual, other than the Contractor, executing payment or performance bonds that are furnished to the Owner by the Contractor.

10-47 TAXIWAY. For the purpose of this document, the term taxiway means the portion of the air operations area of an airport that has been designated by competent airport authority for movement of aircraft to and from the airport's runways or aircraft parking areas.

10-48 WORK. The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Contractor's performance of all duties and obligations imposed by the contract, plans, and specifications.

10-49 WORKING DAY. A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least 6 hours toward completion of the contract. When work is suspended for causes beyond the Contractor's control, Saturdays, Sundays and holidays on which the Contractor's forces engage in regular work, requiring the presence of an inspector, will be considered as working days.

END OF SECTION 10

SECTION 20 PROPOSAL REQUIREMENTS AND CONDITIONS

20-01 ADVERTISEMENT. The time, place and stipulations for acceptance of all bid proposals has been advertised in the manner as prescribed by law and is contained in the INVITATION TO BID.

20-02 PREQUALIFICATION OF BIDDERS. Each bidder shall furnish the owner satisfactory evidence of his/her competency to perform the proposed work. Such evidence of competency, unless otherwise specified, shall consist of statements covering the bidder's past experience on similar work, a list of equipment that would be available for the work, and a list of key personnel that would be available. In addition, each bidder shall furnish the owner satisfactory evidence of his/her financial responsibility. Such evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the bidder's financial resources and liabilities as of the last calendar year or the Contractor's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the bidder shall further certify whether his/her financial responsibility is approximately the same as stated or reported by the public accountant. If the bidder's financial responsibility has changed, the bidder shall qualify the public accountant's statement or report to reflect his/her (bidder's) true financial condition at the time such qualified statement or report is submitted to the Owner.

Unless otherwise specified, a bidder may submit evidence that he is prequalified with the State Highway Division and is on the current "bidder's list" of the state in which the proposed work is located. Such evidence of State Highway Division prequalification may be submitted as evidence of financial responsibility in lieu of the certified statements or reports hereinbefore specified.

Each bidder shall submit "evidence of competency" and "evidence of financial responsibility" to the Owner at the time of bid opening.

20-03 CONTENTS OF PROPOSAL FORMS. The Owner shall furnish bidders with proposal forms. All papers bound with or attached to the proposal forms are necessary parts and must not be detached.

The plans specifications, and other documents designated in the proposal form shall be considered a part of the proposal whether attached or not.

20-04 ISSUANCE OF PROPOSAL FORMS. The Owner reserves the right to refuse to issue a proposal form to a prospective bidder should such bidder be in default for any of the following reasons:

- a. Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.
- b. Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force (with the Owner) at the time the Owner issues the proposal to a prospective bidder.
- c. Contractor default under previous contracts with the Owner.
- d. Unsatisfactory work on previous contracts with the Owner.

20-05 INTERPRETATION OF ESTIMATED PROPOSAL QUANTITIES. An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the proposal. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of proposals and the award of the contract. The Owner does not expressly or by implication agree that the actual quantities involved will correspond exactly therewith; nor shall the bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the work. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications. It is understood that

the quantities may be increased or decreased as hereinafter provided in the subsection titled ALTERATION OF WORK AND QUANTITIES of Section 40 without in any way invalidating the unit bid prices.

20-06 EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE. The bidder is expected to carefully examine the site of the proposed work, the proposal, plans specifications, and contract forms. He shall satisfy himself as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of the proposed contract. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the proposed contract, plans, and specifications.

Boring logs and other records of subsurface investigations and tests are available for inspection of bidders. It is understood and agreed that such subsurface information, whether included in the plans, specifications, or otherwise made available to the bidder, was obtained and is intended for the Owner's design and estimating purposes only. Such information has been made available for the convenience of all bidders. It is further understood and agreed that each bidder is solely responsible for all assumptions, deductions, or conclusions which he may make or obtain from his/her examination of the boring logs and other records of subsurface investigations and tests that are furnished by the Owner.

20-07 PREPARATION OF PROPOSAL. The bidder shall submit his/her proposal on the forms furnished by the Owner. All blank spaces in the proposal forms must be correctly filled in where indicated for each and every item for which a quantity is given. The bidder shall state the price (written in ink or typed) both in words and numerals for which he proposes to do each pay item furnished in the proposal. In case of conflict between words and numerals, the words, unless obviously incorrect, shall govern.

The bidder shall sign his/her proposal correctly and in ink. If the proposal is made by an individual, his/her name and post office address must be shown. If made by a partnership, the name and post office address of each member of the partnership must be shown. If made by a corporation, the person signing the proposal shall give the name of the state under the laws of which the corporation was chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a proposal as an agent shall file evidence of his/her authority to do so and that the signature is binding upon the firm or corporation.

20-08 IRREGULAR PROPOSALS. Proposals shall be considered irregular for the following reasons:

- a. If the proposal is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the proposal form is detached.
- b. If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind that make the proposal incomplete, indefinite, or otherwise ambiguous.
- c. If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized alternate pay items, for which the bidder is not required to furnish a unit price.
- d. If the proposal contains unit prices that are obviously unbalanced.
- e. If the proposal is not accompanied by the proposal guaranty specified by the Owner.

The Owner reserves the right to reject any irregular proposal and the right to waive technicalities if such waiver is in the best interest of the Owner and conforms to local laws and ordinances pertaining to the letting of construction contracts.

20-09 BID GUARANTEE. Each separate proposal shall be accompanied by a certified check, or other specified acceptable collateral, in the amount specified in the proposal form. Such check, or collateral, shall be made payable to the Owner.

20-10 DELIVERY OF PROPOSAL. Each proposal submitted shall be placed in a sealed envelope plainly marked with the project number, location of airport, and name and business address of the bidder on the outside. When sent by mail, preferably registered, the sealed proposal, marked as indicated above, should be enclosed in an additional envelope. No proposal will be considered unless received at the place specified in the advertisement before the time specified for opening all bids. Proposals received after the bid opening time shall be returned to the bidder unopened.

20-11 WITHDRAWAL OR REVISION OF PROPOSALS. A bidder may withdraw or revise (by withdrawal of one proposal and submission of another) a proposal provided that the bidder's request for withdrawal is received by the Owner in writing or by telegram before the time specified for opening bids. Revised proposals must be received at the place specified in the advertisement before the time specified for opening all bids.

20-12 PUBLIC OPENING OF PROPOSALS. Proposals shall be opened, and read, publicly at the time and place specified in the advertisement. Bidders, their authorized agents, and other interested persons are invited to attend. Proposals that have been withdrawn (by written or telegraphic request) or received after the time specified for opening bids shall be returned to the bidder unopened.

20-13 DISQUALIFICATION OF BIDDERS. A bidder shall be considered disqualified for any of the following reasons:

a. Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.

b. Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the Owner until any such participating bidder has been reinstated by the Owner as a qualified bidder.

c. If the bidder is considered to be in "default" for any reason specified in the subsection titled ISSUANCE OF PROPOSAL FORMS of this section.

END OF SECTION 20

SECTION 30 AWARD AND EXECUTION OF CONTRACT

30-01 CONSIDERATION OF PROPOSALS. After the proposals are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the proposal by the unit bid prices. If a bidder's proposal contains a discrepancy between unit bid prices written in words and unit bid prices written in numbers, the unit price written in words shall govern.

Until the award of a contract is made, the Owner reserves the right to reject a bidder's proposal for any of the following reasons:

a. If the proposal is irregular as specified in the subsection titled IRREGULAR PROPOSALS of Section 20.

b. If the bidder is disqualified for any of the reasons specified in the subsection titled DISQUALIFICATION OF BIDDERS of Section 20.

In addition, until the award of a contract is made, the Owner reserves the right to reject any or all proposals, waive technicalities, if such waiver is in the best interest of the Owner and is in conformance with applicable state and local laws or regulations pertaining to the letting of construction contracts; advertise for new proposals; or proceed with the work otherwise. All such actions shall promote the Owner's best interests.

30-02 AWARD OF CONTRACT. The award of a contract, if it is to be awarded, shall be made within 60 calendar days of the date specified for publicly opening proposals, unless otherwise specified herein.

Award of the contract shall be made by the Owner to the lowest, qualified bidder whose proposal conforms to the cited requirements of the Owner.

For AIP contracts, no award shall be made until the FAA has concurred in the sponsor's recommendations to make such award and has approved the sponsor's proposed contract.

30-03 CANCELLATION OF AWARD. The Owner reserves the right to cancel the award without liability to the bidder, except return of proposal guaranty, at any time before a contract has been fully executed by all parties and is approved by the Owner in accordance with the subsection titled APPROVAL OF CONTRACT of this section.

30-04 RETURN OF PROPOSAL GUARANTY. All proposal guaranties, except those of the two lowest bidders, will be returned immediately after the Owner has made a comparison of bids as hereinbefore specified in the subsection titled CONSIDERATION OF PROPOSALS of this section. Proposal guaranties of the two lowest bidders will be retained by the Owner until such time as an award is made, at which time, the unsuccessful bidder's proposal guaranty will be returned. The successful bidder's proposal guaranty will be returned as soon as the Owner receives the contracts bonds as specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section.

30-05 REQUIREMENTS OF CONTRACT BONDS. At the time of the execution of the contract, the successful bidder shall furnish the Owner a surety bond or bonds that have been fully executed by the bidder and the surety guaranteeing the performance of the work and the payment of all legal debts that may be incurred by reason of the Contractor's performance of the work. The surety and the form of the bond or bonds shall be acceptable to the Owner. Unless otherwise specified in this subsection, the surety bond or bonds shall be in a sum equal to the full amount of the contract.

For AIP contracts awarded in excess of \$100,000 the successful bidder shall furnish a separate performance bond and payment bond in the full amount of the awarded contact.

30-06 EXECUTION OF CONTRACT. The successful bidder shall sign (execute) the necessary agreements for entering into the contract and return such signed contract to the owner, along with the fully executed surety bond or bonds specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section, within 15 calendar days from the date mailed or otherwise delivered to the successful bidder. If the contract is mailed, special handling is recommended.

30-07 APPROVAL OF CONTRACT. Upon receipt of the contract and contract bond or bonds that have been executed by the successful bidder, the Owner shall complete the execution of the contract in accordance with local laws or ordinances, and return the fully executed contract to the Contractor. Delivery of the fully executed contract to the Contractor shall constitute the Owner's approval to be bound by the successful bidder's proposal and the terms of the contract.

30-08 FAILURE TO EXECUTE CONTRACT. Failure of the successful bidder to execute the contract and furnish an acceptable surety bond or bonds within the 15 calendar day period specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section shall be just cause for cancellation of the award and forfeiture of the proposal guaranty, not as a penalty, but as liquidation of damages to the Owner.

END OF SECTION 30

SECTION 40 SCOPE OF WORK

40-01 INTENT OF CONTRACT. The intent of the contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the plans, specifications, and terms of the contract.

40-02 ALTERATION OF WORK AND QUANTITIES. The owner reserves and shall have the right to make such alterations in the work as may be necessary or desirable to complete the work originally intended in an acceptable manner. Unless otherwise specified herein, the Engineer shall be and is hereby authorized to make such alterations in the work as may increase or decrease the originally awarded contract quantities, provided that the aggregate of such alterations does not change the total contract cost or the total cost of any major contract item by more than 25 percent (total cost being based on the unit prices and estimated quantities in the awarded contract). Alterations that do not exceed the 25 percent limitation shall not invalidate the contract nor release the surety, and the Contractor agrees to accept payment for such alterations as if the altered work had been a part of the original contract. These alterations that are for work within the general scope of the contract shall be covered by "Change Orders" issued by the Engineer. Change orders for altered work shall include extensions of contract time where, in the Engineer's opinion, such extensions are commensurate with the amount and difficulty of added work.

Should the aggregate amount of altered work exceed the 25 percent limitation hereinbefore specified, such excess altered work shall be covered by supplemental agreement. If the owner and the Contractor are unable to agree on a unit adjustment for any contract item that requires a supplemental agreement, the owner reserves the right to terminate the contract with respect to the item and make other arrangements for its completion.

All supplemental agreements shall require consent of the Contractor's surety and separate performance and payment bonds.

40-03 OMITTED ITEMS. The Engineer may, in the Owner's best interest, omit from the work any contract item, except major contract items. Major contract items may be omitted by a supplemental agreement. Such omission of contract items shall not invalidate any other contract provision or requirement.

Should a contract item be omitted or otherwise ordered to be nonperformed, the Contractor shall be paid for all work performed toward completion of such item prior to the date of the order to omit such item. Payment for work performed shall be in accordance with the subsection titled PAYMENT FOR OMITTED ITEMS of Section 90.

40-04 EXTRA WORK. Should acceptable completion of the contract require the Contractor to perform an item of work for which no basis of payment has been provided in the original contract or previously issued change orders or supplemental agreements, the same shall be called "Extra Work." Extra Work that is within the general scope of the contract shall be covered by written change order. Change orders for such Extra Work shall contain agreed unit prices for performing the change order work in accordance with the requirements specified in the order, and shall contain any adjustment to the contract time that, in the Engineer's opinion, is necessary for completion of such Extra Work.

When determined by the Engineer to be in the Owner's best interest, he may order the Contractor to proceed with Extra Work by force account as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of Section 90.

Extra Work that is necessary for acceptable completion of the project, but is not within the general scope of the work covered by the original contract shall be covered by a Supplemental Agreement as hereinbefore defined in the subsection titled SUPPLEMENTAL AGREEMENT of Section 10.

Any claim for payment of Extra Work that is not covered by written agreement (change order or supplemental agreement) shall be rejected by the Owner.

40-05 MAINTENANCE OF TRAFFIC. It is the explicit intention of the contract that the safety of aircraft, as well as the Contractor's equipment and personnel, is the most important consideration. It is understood and agreed that the Contractor shall provide for the free and unobstructed movement of aircraft in the air operations areas of the airport with respect to his/her own operations and the operations of all his/her subcontractors as specified in the subsection titled LIMITATION OF OPERATIONS of Section 80. It is further understood and agreed that the Contractor shall provide for the uninterrupted operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and upon the airport as specified in the subsection titled CONTRACTOR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS in Section 70.

With respect to his/her own operations and the operations of all his/her subcontractors, the Contractor shall provide marking, lighting, and other acceptable means of identifying: personnel; equipment; vehicles; storage areas; and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the airport.

When the contract requires the maintenance of vehicular traffic on an existing road, street, or highway during the Contractor's performance of work that is otherwise provided for in the contract, plans, and specifications, the Contractor shall keep such road, street, or highway open to all traffic and shall provide such maintenance as may be required to accommodate traffic. The Contractor shall furnish erect, and maintain barricades, warning signs, flagperson, and other traffic control devices in reasonable conformity with the manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office), unless otherwise specified herein. The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways. Unless otherwise specified herein, the Contractor will not be required to furnish snow removal for such existing road, street, or highway.

The Contractor shall make his/her own estimate of all labor, materials, equipment, and incidentals necessary for providing the maintenance of aircraft and vehicular traffic as specified in this subsection.

The cost of maintaining the aircraft and vehicular traffic specified in this subsection shall not be measured or paid for directly, but shall be included in the various contract items.

40-06 REMOVAL OF EXISTING STRUCTURES. All existing structures encountered within the established lines, grades, or grading sections shall be removed by the Contractor, unless such existing structures are otherwise specified to be relocated, adjusted up or down, salvaged, abandoned in place, reused in the work or to remain in place. The cost of removing such existing structures shall not be measured or paid for directly, but shall be included in the various contract items.

Should the Contractor encounter an existing structure (above or below ground) in the work for which the disposition is not indicated on the plans, the Engineer shall be notified prior to disturbing such structure. The disposition of existing structures so encountered shall be immediately determined by the Engineer in accordance with the provisions of the contract.

Except as provided in the subsection titled RIGHTS IN AND USE OF MATERIALS FOUND IN THE WORK of this section, it is intended that all existing materials or structures that may be encountered (within the lines, grades, or grading sections established for completion of the work) shall be utilized in the

work as otherwise provided for in the contract and shall remain the property of the Owner when so utilized in the work.

40-07 RIGHTS IN AND USE OF MATERIALS FOUND IN THE WORK. Should the Contractor encounter any material such as (but not restricted to) sand, stone, gravel, slag, or concrete slabs within the established lines, grades, or grading sections, the use of which is intended by the terms of the contract to be either embankment or waste, he may at his/her option either:

- a. Use such material in another contract item, providing such use is approved by the Engineer and is in conformance with the contract specifications applicable to such use; or,
- b. Remove such material from the site, upon written approval of the Engineer; or
- c. Use such material for his/her own temporary construction on site; or,
- d. Use such material as intended by the terms of the contract.

Should the Contractor wish to exercise option a., b., or c., he shall request the Engineer's approval in advance of such use.

Should the Engineer approve the Contractor's request to exercise option a., b., or c., the Contractor shall be paid for the excavation or removal of such material at the applicable contract price. The Contractor shall replace, at his/her own expense, such removed or excavated material with an agreed equal volume of material that is acceptable for use in constructing embankment, backfills, or otherwise to the extent that such replacement material is needed to complete the contract work. The Contractor shall not be charged for his/her use of such material so used in the work or removed from the site.

Should the Engineer approve the Contractor's exercise of option a., the Contractor shall be paid, at the applicable contract price, for furnishing and installing such material in accordance with requirements of the contract item in which the material is used.

It is understood and agreed that the Contractor shall make no claim for delays by reason of his/her exercise of option a., b., or c.

The Contractor shall not excavate, remove, or otherwise disturb any material, structure, or part of a structure which is located outside the lines, grades, or grading sections established for the work, except where such excavation or removal is provided for in the contract, plans, or specifications.

40-09 FINAL CLEANING UP. Upon completion of the work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees. He shall cut all brush and woods within the limits indicated and shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of such property owner.

END OF SECTION 40

SECTION 50 CONTROL OF WORK

50-01 AUTHORITY OF THE ENGINEER. The Engineer shall decide any and all questions which may arise as to the quality and acceptability of materials furnished, work performed, and as to the manner of performance and rate of progress of the work. The Engineer shall decide all questions that may arise as to the interpretation of the specifications or plans relating to the work. The Engineer shall determine the amount and quality of the several kinds of work performed and materials furnished which are to be paid for the under contract.

The Engineer does not have the authority to accept pavements that do not conform to FAA specification requirements.

50-02 CONFORMITY WITH PLANS AND SPECIFICATIONS. All work and all materials furnished shall be in reasonably close conformity with the lines, grades, grading sections, cross sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the contract, plans or specifications.

If the Engineer finds the materials furnished, work performed, or the finished product not within reasonably close conformity with the plans and specifications but that the portion of the work affected will, in his/her opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, he will advise the Owner of his/her determination that the affected work be accepted and remain in place. In this event, the Engineer will document his/her determination and recommend to the Owner a basis of acceptance that will provide for an adjustment in the contract price for the affected portion of the work. The Engineer's determination and recommended contract price adjustments will be based on good engineering judgment and such tests or retests of the affected work as are, in his/her opinion, needed. Changes in the contract price shall be covered by contract modifications (change order or supplemental agreement) as applicable.

If the Engineer finds the materials furnished, work performed, or the finished product are not in reasonably close conformity with the plans and specifications and have resulted in an unacceptable finished product, the affected work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the Engineer's written orders.

For the purpose of this subsection, the term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the work in accordance with the contract, plans, and specifications. The term shall not be construed as waiving the Engineer's responsibility to insist on strict compliance with the requirements of the contract, plans, and specifications during the Contractor's prosecution of the work, when, in the Engineer's opinion, such compliance is essential to provide an acceptable finished portion of the work.

For the purpose of this subsection, the term "reasonably close conformity" is also intended to provide the Engineer with the authority, after consultation with the FAA, to use good engineering judgment in his/her determinations as to acceptance of work that is not in strict conformity but will provide a finished product equal to or better than that intended by the requirements of the contract, plans and specifications.

The Engineer will not be responsible for the Contractor's means, methods, techniques, sequences, or procedures of construction or the safety precautions incident thereto.

50-03 COORDINATION OF CONTRACT, PLANS, AND SPECIFICATIONS. The contract, plans, specifications, and all referenced standards cited are essential parts of the contract requirements. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; contract technical specifications shall govern over contract general provisions, plans, cited standards for materials or testing, and cited FAA advisory

circulars; contract general provisions shall govern over plans, cited standards for materials or testing, and cited FAA advisory circulars; plans shall govern over cited standards for materials or testing and cited FAA advisory circulars. If any paragraphs contained in the Special Provisions conflict with General Provisions or Technical Specifications, the Special Provisions shall govern.

The Contractor shall not take advantage of any apparent error or omission on the plans or specifications. In the event the Contractor discovers any apparent error or discrepancy, he shall immediately call upon the Engineer for his/her interpretation and decision, and such decision shall be final.

50-04 COOPERATION OF CONTRACTOR. The Contractor will be supplied with five copies each of the plans and specifications. He shall have available on the work at all times one copy each of the plans and specifications. Additional copies of plans and specifications may be obtained by the Contractor for the cost of reproduction.

The Contractor shall give constant attention to the work to facilitate the progress thereof, and he shall cooperate with the Engineer and his/her inspectors and with other contractors in every way possible. The Contractor shall have a competent superintendent on the work at all times who is fully authorized as his/her agent on the work. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Engineer or his/her authorized representative.

50-05 COOPERATION BETWEEN CONTRACTORS. The Owner reserves the right to contract for and perform other or additional work on or near the work covered by this contract.

When separate contracts are let within the limits of any one project, each Contractor shall conduct his/her work so as not to interfere with or hinder the progress of completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with his/her contract and shall protect and save harmless the Owner from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other Contractors working within the limits of the same project.

The Contractor shall arrange his/her work and shall place and dispose of the materials being used so as not to interfere with the operations of the other Contractors within the limits of the same project. He shall join his/her work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

50-06 CONSTRUCTION LAYOUT AND STAKES. The Engineer shall establish horizontal and vertical control only. The Contractor must establish all layout required for the construction of the work. Such stakes and markings as the Engineer may set for either his/her own or the Contractor's guidance shall be preserved by the Contractor. In case of negligence on the part of the Contractor, or his/her employees, resulting in the destruction of such stakes or markings, an amount equal to the cost of replacing the same may be deducted from subsequent estimates due the Contractor at the discretion of the Engineer.

50-07 AUTOMATICALLY CONTROLLED EQUIPMENT. Whenever batching or mixing plant equipment is required to be operated automatically under the contract and a breakdown or malfunction of the automatic controls occurs, the equipment may be operated manually or by other methods for a period 48 hours following the breakdown or malfunction, provided this method of operations will produce results which conform to all other requirements of the contract.

50-08 AUTHORITY AND DUTIES OF INSPECTORS. Inspectors employed by the Owner shall be authorized to inspect all work done and all material furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. Inspectors are not authorized to revoke, alter, or waive any provision of the contract. Inspectors are not

authorized to issue instructions contrary to the plans and specifications or to act as foreman for the Contractor.

Inspectors employed by the Owner are authorized to notify the Contractor or his/her representatives of any failure of the work or materials to conform to the requirements of the contract, plans, or specifications and to reject such nonconforming materials in question until such issues can be referred to the Engineer for his/her decision.

50-09 INSPECTION OF THE WORK. All materials and each part or detail of the work shall be subject to inspection by the Engineer. The Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the Engineer requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Any work done or materials used without supervision or inspection by an authorized representative of the Owner may be ordered removed and replaced at the Contractor's expense unless the Owner's representative failed to inspect after having been given reasonable notice in writing that the work was to be performed.

Should the contract work include relocation, adjustment, or any other modification to existing facilities, not the property of the (contract) Owner, authorized representatives of the owners of such facilities shall have the right to inspect such work. Such inspection shall in no sense make any facility owner a party to the contract, and shall in no way interfere with the rights of the parties to this contract.

50-10 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK. All work that does not conform to the requirements of the contract, plans, and specifications will be considered unacceptable, unless otherwise determined acceptable by the Engineer as provided in the subsection titled CONFORMITY WITH PLANS AND SPECIFICATIONS of this section.

Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner in accordance with the provisions of the subsection titled CONTRACTOR'S RESPONSIBILITY FOR WORK of Section 70.

No removal work made under provision of this subsection shall be done without lines and grades having been given by the Engineer. Work done contrary to the instructions of the Engineer, work done beyond the lines shown on the plans or as given, except as herein specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so done may be ordered removed or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply forthwith with any order of the Engineer made under the provisions of this subsection, the Engineer will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs (incurred by the Owner) from any monies due or to become due the Contractor.

50-11 LOAD RESTRICTIONS. The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the work. A special permit will not relieve the Contractor of liability for damage that may result from the moving of material or equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base, or structure before the expiration of the curing period. The Contractor shall be responsible for all damage done by his/her hauling equipment and shall correct such damage at his/her own expense.

50-12 MAINTENANCE DURING CONSTRUCTION. The Contractor shall maintain the work during construction and until the work is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces so that the work is maintained in satisfactory condition at all times.

In the case of a contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various contract items, and the Contractor will not be paid an additional amount for such work.

50-13 FAILURE TO MAINTAIN THE WORK. Should the Contractor at any time fail to maintain the work as provided in the subsection titled MAINTENANCE DURING CONSTRUCTION of this section, the Engineer shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists.

Should the Contractor fail to respond to the Engineer's notification, the Owner may suspend any work necessary for the Owner to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the Owner, shall be deducted from monies due or to become due the Contractor.

50-14 PARTIAL ACCEPTANCE. If at any time during the prosecution of the project the Contractor substantially completes a usable unit or portion of the work, the occupancy of which will benefit the Owner, he may request the Engineer to make final inspection of that unit. If the Engineer finds upon inspection that the unit has been satisfactorily completed in compliance with the contract, he may accept it as being completed, and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Owner shall not void or alter any provision of the contract.

50-15 FINAL ACCEPTANCE. Upon due notice from the Contractor of presumptive completion of the entire project, the Engineer and Owner will make an inspection. If all construction provided for and contemplated by the contract is found to be completed in accordance with the contract, plans, and specifications, such inspection shall constitute the final inspection. The Engineer shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the Engineer will give the Contractor the necessary instructions for correction of same and the Contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made which shall constitute the final inspection, provided the work has been satisfactorily completed. In such event, the Engineer will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

50-16 CLAIMS FOR ADJUSTMENT AND DISPUTES. If for any reason the Contractor deems that additional compensation is due him for work or materials not clearly provided for in the contract, plans, or specifications or previously authorized as extra work, he shall notify the Engineer in writing of his/her intention to claim such additional compensation before he begins the work on which he bases the claim. If such notification is not given or the Engineer is not afforded proper opportunity by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim

for such additional compensation. Such notice by the Contractor and the fact that the Engineer has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 10 calendar days, submit his/her written claim to the Engineer who will present it to the Owner for consideration in accordance with local laws or ordinances.

Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

50-17 COST REDUCTION INCENTIVE. The provisions of this subsection will apply only to contracts awarded to the lowest bidder pursuant to competitive bidding.

On projects with original contract amounts in excess of \$100,000, the Contractor may submit to the Engineer, in writing, proposals for modifying the plans, specifications or other requirements of the contract for the sole purpose of reducing the cost of construction. The cost reduction proposal shall not impair, in any manner, the essential functions or characteristics of the project, including but not limited to service life, economy of operation, ease of maintenance, desired appearance, design and safety standards. This provision shall not apply unless the proposal submitted is specifically identified by the Contractor as being presented for consideration as a value engineering proposal.

Not eligible for cost reduction proposals are changes in the basic design of a pavement type, runway and taxiway lighting, visual aids, hydraulic capacity of drainage facilities, or changes in grade or alignment that reduce the geometric standards of the project.

As a minimum, the following information shall be submitted by the Contractor with each proposal:

- a. A description of both existing contract requirements for performing the work and the proposed changes, with a discussion of the comparative advantages and disadvantages of each;
- b. An itemization of the contract requirements that must be changed if the proposal is adopted;
- c. A detailed estimate of the cost of performing the work under the existing contract and under the proposed changes;
- d. A statement of the time by which a change order adopting the proposal must be issued;
- e. A statement of the effect adoption of the proposal will have on the time for completion of the contract; and
- f. The contract items of work affected by the proposed changes, including any quantity variation attributable to them.

The Contractor may withdraw, in whole or in part, any cost reduction proposal not accepted by the Engineer, within the period specified in the proposal. The provisions of this subsection shall not be construed to require the Engineer to consider any cost reduction proposal that may be submitted.

The Contractor shall continue to perform the work in accordance with the requirements of the contract until a change order incorporating the cost reduction proposal has been issued. If a change order has not been issued by the date upon which the Contractor's cost reduction proposal specifies that a decision should be made, or such other date as the Contractor may subsequently have requested in writing, such cost reduction proposal shall be deemed rejected.

The Engineer shall be the sole judge of the acceptability of a cost reduction proposal and of the estimated net savings from the adoption of all or any part of such proposal. In determining the estimated net savings, the Engineer may disregard the contract bid prices if, in the Engineer's judgment such prices do not represent a fair measure of the value of the work to be performed or deleted.

The Owner may require the Contractor to share in the Owner's costs of investigating a cost reduction proposal submitted by the Contractor as a condition of considering such proposal. Where such a condition is imposed, the Contractor shall acknowledge acceptance of it in writing. Such acceptance shall constitute full authority for the Owner to deduct the cost of investigating a cost reduction proposal from amounts payable to the Contractor under the contract.

If the Contractor's cost reduction proposal is accepted in whole or in part, such acceptance will be by a contract change order that shall specifically state that it is executed pursuant to this subsection. Such change order shall incorporate the changes in the plans and specifications which are necessary to permit the cost reduction proposal or such part of it as has been accepted and shall include any conditions upon which the Engineer's approval is based. The change order shall also set forth the estimated net savings attributable to the cost reduction proposal. The net savings shall be determined as the difference in costs between the original contract costs for the involved work items and the costs occurring as a result of the proposed change. The change order shall also establish the net savings agreed upon and shall provide for adjustment in the contract price that will divide the net savings equally between the Contractor and the Owner.

The Contractor's 50 percent share of the net savings shall constitute full compensation to the Contractor for the cost reduction proposal and the performance of the work.

Acceptance of the cost-reduction proposal and performance of the cost-reduction work shall not extend the time of completion of the contract unless specifically provided for in the contract change order.

END OF SECTION 50

SECTION 60 CONTROL OF MATERIALS

60-01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS. The materials used on the work shall conform to the requirements of the contract, plans, and specifications. Unless otherwise specified, such materials that are manufactured or processed shall be new (as compared to used or reprocessed).

In order to expedite the inspection and testing of materials, the Contractor shall furnish complete statements to the Engineer as to the origin, composition, and manufacture of all materials to be used in the work. Such statements shall be furnished promptly after execution of the contract but, in all cases, prior to delivery of such materials.

At the Engineer's option, materials may be approved at the source of supply before delivery is stated. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the Contractor shall furnish materials from other sources.

The Contractor shall furnish airport lighting equipment that conforms to the requirements of cited materials specifications. In addition, where an FAA specification for airport lighting equipment is cited in the plans or specifications, the Contractor shall furnish such equipment that is:

a. Listed in FAA Advisory Circular (AC) 150/5345-53, Airport Lighting Equipment Certification Program, that is in effect on the date of advertisement; and,

b. Produced by the manufacturer qualified (by FAA) to produce such specified and listed equipment.

The airport lighting equipment required for this contract, to be furnished by the Contractor, is listed in the technical specifications.

60-02 SAMPLES, TESTS, AND CITED SPECIFICATIONS. Unless otherwise designated, all materials used in the work shall be inspected, tested, and approved by the Engineer before incorporation in the work. Any work in which untested materials are used without approval or written permission of the Engineer shall be performed at the Contractor's risk. Materials found to be unacceptable and unauthorized will not be paid for and, if directed by the Engineer, shall be removed at the Contractor's expense. Unless otherwise designated, tests in accordance with the cited standard methods of ASTM, AASHTO, Federal Specifications, Commercial Item Descriptions, and all other cited methods, which are current on the date of advertisement for bids, will be made by and at the expense of the Engineer. The testing organizations performing on site field tests shall have copies of all referenced standards on the construction site for use by all technicians and other personnel, including the Contractor's representative at his/her request. Unless otherwise designated, samples will be taken by a qualified representative of the Engineer. All materials being used are subject to inspection, test, or rejection at any time prior to or during incorporation into the work. Copies of all tests will be furnished to the Contractor's representative at his/her request.

The Contractor shall employ a testing organization to perform all Contractor required tests. The Contractor shall submit to the Engineer resumes on all testing organizations and individual persons who will be performing the tests. The Engineer will determine if such persons are qualified. All the test data shall be reported to the Engineer after the results are known. A legible, handwritten copy of all test data shall be given to the Engineer daily, along with printed reports, in an approved format, on a weekly basis. After completion of the project, and prior to final payment, the Contractor shall submit a final report to the Engineer showing all test data reports, plus an analysis of all results showing ranges, averages, and corrective action taken on all failing tests.

60-03 CERTIFICATION OF COMPLIANCE. The Engineer may permit the use, prior to sampling and testing, of certain materials or assemblies when accompanied by manufacturer's certificates of compliance stating that such materials or assemblies fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer. Each lot of such materials or assemblies delivered to the work must be accompanied by a certificate of compliance in which the lot is clearly identified.

Materials or assemblies used on the basis of certificates of compliance may be sampled and tested at any time and if found not to be in conformity with contract requirements will be subject to rejection whether in place or not.

The form and distribution of certificates of compliance shall be as approved by the Engineer.

When a material or assembly is specified by "brand name or equal" and the Contractor elects to furnish the specified "brand name," the Contractor shall be required to furnish the manufacturer's certificate of compliance for each lot of such material or assembly delivered to the work. Such certificate of compliance shall clearly identify each lot delivered and shall certify as to:

- a. Conformance to the specified performance, testing, quality or dimensional requirements; and,
- b. Suitability of the material or assembly for the use intended in the contract work.

Should the Contractor propose to furnish an "or equal" material or assembly, he shall furnish the manufacturer's certificates of compliance as hereinbefore described for the specified brand name material or assembly. However, the Engineer shall be the sole judge as to whether the proposed "or equal" is suitable for use in the work.

The Engineer reserves the right to refuse permission for use of materials or assemblies on the basis of certificates of compliance.

60-04 PLANT INSPECTION. The Engineer or his/her authorized representative may inspect, at its source, any specified material or assembly to be used in the work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods or materials to be used in the work and to obtain samples required for his/her acceptance of the material or assembly.

Should the Engineer conduct plant inspections, the following conditions shall exist:

- a. The Engineer shall have the cooperation and assistance of the Contractor and the producer with whom he has contracted for materials.
- b. The Engineer shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of the materials being furnished.
- c. If required by the Engineer, the Contractor shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Office or working space should be conveniently located with respect to the plant.

It is understood and agreed that the Owner shall have the right to retest any material that has been tested and approved at the source of supply after it has been delivered to the site. The Engineer shall have the right to reject only material which, when retested, does not meet the requirements of the contract, plans, or specifications.

60-05 ENGINEER'S FIELD OFFICE. Not Required

60-06 STORAGE OF MATERIALS. Materials shall be so stored as to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the Engineer. Materials to be stored on airport property shall not create an obstruction to air navigation nor shall they interfere with the free and unobstructed movement of aircraft. Unless otherwise shown on the plans, the storage of materials and the location of the Contractor's plant and parked equipment or vehicles shall be as directed by the Engineer. Private property shall not be used for storage purposes without written permission of the owner or lessee of such property. The Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the Engineer a copy of the property owner's permission.

All storage sites on private or airport property shall be restored to their original condition by the Contractor at his/her entire expense, except as otherwise agreed to (in writing) by the owner or lessee of the property.

60-07 UNACCEPTABLE MATERIALS. Any material or assembly that does not conform to the requirements of the contract, plans, or specifications shall be considered unacceptable and shall be rejected. The Contractor shall remove any rejected material or assembly from the site of the work, unless otherwise instructed by the Engineer.

Rejected material or assembly, the defects of which have been corrected by the Contractor, shall not be returned to the site of the work until such time as the Engineer has approved its used in the work.

60-08 OWNER FURNISHED MATERIALS. The Contractor shall furnish all materials required to complete the work, except those specified herein (if any) to be furnished by the Owner. Owner-furnished materials shall be made available to the Contractor at the location specified herein.

All costs of handling, transportation from the specified location to the site of work, storage, and installing Owner-furnished materials shall be included in the unit price bid for the contract item in which such Owner-furnished material is used.

After any Owner-furnished material has been delivered to the location specified, the Contractor shall be responsible for any demurrage, damage, loss, or other deficiencies that may occur during the Contractor's handling, storage, or use of such Owner-furnished material. The Owner will deduct from any monies due or to become due the Contractor any cost incurred by the Owner in making good such loss due to the Contractor's handling, storage, or use of Owner-furnished materials.

END OF SECTION 60

SECTION 70

LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC

70-01 LAWS TO BE OBSERVED. The Contractor shall keep fully informed of all Federal and state laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. He shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and all his/her officers, agents, or servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself or his/her employees.

70-02 PERMITS, LICENSES, AND TAXES. The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

70-03 PATENTED DEVICES, MATERIALS, AND PROCESSES. If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner. The Contractor and the surety shall indemnify and save harmless the Owner, any third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the prosecution or after the completion of the work.

70-04 RESTORATION OF SURFACES DISTURBED BY OTHERS. The Owner reserves the right to authorize the construction, reconstruction, or maintenance of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA) facility, or a utility service of another government agency at any time during the progress of the work. To the extent that such construction, reconstruction, or maintenance has been coordinated with the Owner, such authorized work (by others) is indicated in the SUPPLEMENTARY CONDITIONS

Except as listed above, the Contractor shall not permit any individual, firm, or corporation to excavate or otherwise disturb such utility services or facilities located within the limits of the work without the written permission of the Engineer.

Should the owner of public or private utility service, FAA, or NOAA facility, or a utility service of another government agency be authorized to construct, reconstruct, or maintain such utility service or facility during the progress of the work, the Contractor shall cooperate with such owners by arranging and performing the work in this contract so as to facilitate such construction, reconstruction or maintenance by others whether or not such work by others is listed above. When ordered as extra work by the Engineer, the Contractor shall make all necessary repairs to the work which are due to such authorized work by others, unless otherwise provided for in the contract, plans, or specifications. It is understood and agreed that the Contractor shall not be entitled to make any claim for damages due to such authorized work by others or for any delay to the work resulting from such authorized work.

70-05 FEDERAL AID PARTICIPATION. For AIP contracts, the United States Government has agreed to reimburse the Owner for some portion of the contract costs. Such reimbursement is made from time to time upon the Owner's request to the FAA. In consideration of the United States Government's (FAA's) agreement with the Owner, the Owner has included provisions in this contract pursuant to the requirements of Title 49 of the United States Code (USC) and the Rules and Regulations of the FAA that pertain to the work.

As required by the USC, the contract work is subject to the inspection and approval of duly authorized representatives of the Administrator, FAA, and is further subject to those provisions of the rules and regulations that are cited in the contract, plans, or specifications.

No requirement of the USC, the rules and regulations implementing the USC, or this contract shall be construed as making the Federal Government a party to the contract nor will any such requirement interfere, in any way, with the rights of either party to the contract.

70-06 SANITARY, HEALTH, AND SAFETY PROVISIONS. The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of his/her employees as may be necessary to comply with the requirements of the state and local Board of Health, or of other bodies or tribunals having jurisdiction.

Attention is directed to Federal, state, and local laws, rules and regulations concerning construction safety and health standards. The Contractor shall not require any worker to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous to his/her health or safety.

70-07 PUBLIC CONVENIENCE AND SAFETY. The Contractor shall control his/her operations and those of his/her subcontractors and all suppliers, to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

The Contractor shall maintain the free and unobstructed movement of aircraft and vehicular traffic with respect to his/her own operations and those of his/her subcontractors and all suppliers in accordance with the subsection titled MAINTENANCE OF TRAFFIC of Section 40 hereinbefore specified and shall limit such operations for the convenience and safety of the traveling public as specified in the subsection titled LIMITATION OF OPERATIONS of Section 80 hereinafter.

70-08 BARRICADES, WARNING SIGNS, AND HAZARD MARKINGS. The Contractor shall furnish, erect, and maintain all barricades, warning signs, and markings for hazards necessary to protect the public and the work. When used during periods of darkness, such barricades, warning signs, and hazard markings shall be suitably illuminated. Unless otherwise specified, barricades, warning signs, and markings for hazards that are in the air operations area shall be a maximum of 18 inches high. Unless otherwise specified, barricades shall be spaced not more than 25 feet apart. Barricades, warning signs, and markings shall be paid for under Section 40-05.

For vehicular and pedestrian traffic, the Contractor shall furnish, erect, and maintain barricades, warning signs, lights and other traffic control devices in reasonable conformity with the Manual of Uniform Traffic Control Devices for Streets and Highways (published by the United States Government Printing Office).

When the work requires closing an air operations area of the airport or portion of such area, the Contractor shall furnish, erect, and maintain temporary markings and associated lighting conforming to the requirements of AC 150/5340-1, Standards for Airport Markings.

The Contractor shall furnish, erect, and maintain markings and associated lighting of open trenches, excavations, temporary stock piles, and his/her parked construction equipment that may be hazardous to the operation of emergency fire-rescue or maintenance vehicles on the airport in reasonable conformance to AC 150/5370-2, Operational Safety on Airports During Construction.

The Contractor shall identify each motorized vehicle or piece of construction equipment in reasonable conformance to AC 150/5370-2.

The Contractor shall furnish and erect all barricades, warning signs, and markings for hazards prior to commencing work that requires such erection and shall maintain the barricades, warning signs, and markings for hazards until their dismantling is directed by the Engineer.

Open-flame type lights shall not be permitted within the air operations areas of the airport.

70-09 USE OF EXPLOSIVES. When the use of explosives is necessary for the prosecution of the work, the Contractor shall exercise the utmost care not to endanger life or property, including new work. The Contractor shall be responsible for all damage resulting from the use of explosives.

All explosives shall be stored in a secure manner in compliance with all laws and ordinances, and all such storage places shall be clearly marked. Where no local laws or ordinances apply, storage shall be provided satisfactory to the Engineer and, in general, not closer than 1,000 feet (300 m) from the work or from any building, road, or other place of human occupancy.

The Contractor shall notify each property owner and public utility company having structures or facilities in proximity to the site of the work of his/her intention to use explosives. Such notice shall be given sufficiently in advance to enable them to take such steps as they may deem necessary to protect their property from injury.

The use of electrical blasting caps shall not be permitted on or within 1,000 feet (300 m) of the airport property.

70-10 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE. The Contractor shall be responsible for the preservation of all public and private property, and shall protect carefully from disturbance or damage all land monuments and property markers until the Engineer has witnessed or otherwise referenced their location and shall not move them until directed.

The Contractor shall be responsible for all damage or injury to property of any character, during the prosecution of the work, resulting from any act, omission, neglect, or misconduct in his/her manner or method of executing the work, or at any time due to defective work or materials, and said responsibility will not be released until the project shall have been completed and accepted.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the nonexecution thereof by the Contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, or otherwise restoring as may be directed, or he shall make good such damage or injury in an acceptable manner.

70-11 RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify and save harmless the Engineer and the Owner and their officers, and employees from all suits actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. Money due the Contractor under and by virtue of his/her contract as may be considered necessary by the Owner for such purpose may be retained for the use of the Owner or, in case no money is due, his/her surety may be held until such suit(s), action(s), or claim(s) for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the Owner, except that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that he is adequately protected by public liability and property damage insurance.

70-12 THIRD PARTY BENEFICIARY CLAUSE. It is specifically agreed between the parties executing the contract that it is not intended by any of the provisions of any part of the contract to create the public or any member thereof a third party beneficiary or to authorize anyone not a party to the contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the contract.

70-13 OPENING SECTIONS OF THE WORK TO TRAFFIC. Should it be necessary for the Contractor to complete portions of the contract work for the beneficial occupancy of the Owner prior to completion of the entire contract, such "phasing" of the work shall be specified herein and indicated on the plans. When so specified, the Contractor shall complete such portions of the work on or before the date specified or as otherwise specified. The Contractor shall make his/her own estimate of the difficulties involved in arranging his/her work to permit such beneficial occupancy by the Owner as described in the SUPPLEMENTARY CONDITIONS.

Upon completion of any portion of the work listed above, such portion shall be accepted by the Owner in accordance with the subsection titled PARTIAL ACCEPTANCE of Section 50.

No portion of the work may be opened by the Contractor for public use until ordered by the Engineer in writing. Should it become necessary to open a portion of the work to public traffic on a temporary or intermittent basis, such openings shall be made when, in the opinion of the Engineer, such portion of the work is in an acceptable condition to support the intended traffic. Temporary or intermittent openings are considered to be inherent in the work and shall not constitute either acceptance of the portion of the work so opened or a waiver of any provision of the contract. Any damage to the portion of the work so opened that is not attributable to traffic which is permitted by the Owner shall be repaired by the Contractor at his/her expense.

The Contractor shall make his/her own estimate of the inherent difficulties involved in completing the work under the conditions herein described and shall not claim any added compensation by reason of delay or increased cost due to opening a portion of the contract work.

Contractor shall be required to conform to safety standards contained AC 150/5370-2, Operational Safety on Airports During Construction (See Special Provisions.)

Contractor shall refer to the approved safety plan to identify barricade requirements and other safety requirements prior to opening up sections of work to traffic.

70-14 CONTRACTOR'S RESPONSIBILITY FOR WORK. Until the Engineer's final written acceptance of the entire completed work, excepting only those portions of the work accepted in accordance with the subsection titled PARTIAL ACCEPTANCE of Section 50, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God such as earthquake, tidal wave, tornado, hurricane or other cataclysmic phenomenon of nature, or acts of the public enemy or of government authorities.

If the work is suspended for any cause whatever, the Contractor shall be responsible for the work and shall take such precautions necessary to prevent damage to the work. The Contractor shall provide for normal drainage and shall erect necessary temporary structures, signs, or other facilities at his/her expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established planting, seedings, and soddings furnished under his/her contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

70-15 CONTRACTOR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS. As provided in the subsection titled RESTORATION OF SURFACES DISTURBED BY OTHERS of this section, the Contractor shall cooperate with the owner of any public or private utility service, FAA or NOAA, or a utility service of another government agency that may be authorized by the owner to construct, reconstruct or maintain such utility services or facilities during the progress of the work. In

addition, the Contractor shall control his/her operations to prevent the unscheduled interruption of such utility services and facilities.

To the extent that such public or private utility services, FAA, or NOAA facilities, or utility services of another governmental agency are known to exist within the limits of the contract work, the approximate locations have been indicated on the plans and the owners are indicated in the SUPPLEMENTARY CONDITIONS.

It is understood and agreed that the Owner does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the plans or encountered in the work. Any inaccuracy or omission in such information shall not relieve the Contractor of his/her responsibility to protect such existing features from damage or unscheduled interruption of service.

It is further understood and agreed that the Contractor shall, upon execution of the contract, notify the owners of all utility services or other facilities of his/her plan of operations. Such notification shall be in writing addressed to THE PERSON TO CONTACT as provided hereinbefore in this subsection and the subsection titled RESTORATION OF SURFACES DISTURBED BY OTHERS of this section. A copy of each notification shall be given to the Engineer.

In addition to the general written notification hereinbefore provided, it shall be the responsibility of the Contractor to keep such individual owners advised of changes in his/her plan of operations that would affect such owners.

Prior to commencing the work in the general vicinity of an existing utility service or facility, the Contractor shall again notify each such owner of his/her plan of operation. If, in the Contractor's opinion, the owner's assistance is needed to locate the utility service or facility or the presence of a representative of the owner is desirable to observe the work, such advice should be included in the notification. Such notification shall be given by the most expeditious means to reach the utility owner's PERSON TO CONTACT no later than two normal business days prior to the Contractor's commencement of operations in such general vicinity. The Contractor shall furnish a written summary of the notification to the Engineer.

The Contractor's failure to give the two day's notice hereinabove provided shall be cause for the Owner to suspend the Contractor's operations in the general vicinity of a utility service or facility.

Where the outside limits of an underground utility service have been located and staked on the ground, the Contractor shall be required to use excavation methods acceptable to the Engineer within 3 feet (90 cm) of such outside limits at such points as may be required to ensure protection from damage due to the Contractor's operations.

Should the Contractor damage or interrupt the operation of a utility service or facility by accident or otherwise, he shall immediately notify the proper authority and the Engineer and shall take all reasonable measures to prevent further damage or interruption of service. The Contractor, in such events, shall cooperate with the utility service or facility owner and the Engineer continuously until such damage has been repaired and service restored to the satisfaction of the utility or facility owner.

The Contractor shall bear all costs of damage and restoration of service to any utility service or facility due to his/her operations whether or not due to negligence or accident. The Owner reserves the right to deduct such costs from any monies due or which may become due the Contractor, or his/her surety.

70-15.1 FAA FACILITIES AND CABLE RUNS. The Contractor is hereby advised that the construction limits of the project include existing facilities and buried cable runs that are owned, operated and maintained by the FAA. The Contractor, during the prosecution of the project work, shall comply with the following:

- a. The Contractor shall permit FAA maintenance personnel the right of access to the project work site for purposes of inspecting and maintaining all existing FAA owned facilities.
- b. The Contractor shall notify the above named FAA Airway Facilities Point-of-Contact seven (7) calendar days prior to commencement of construction activities in order to permit sufficient time to locate and mark existing buried cables and to schedule any required facility outages.
- c. If prosecution of the project work requires a facility outage, the Contractor shall contact the above named FAA Point-of-Contact a minimum of 48 hours prior to the time of the required outage.
- d. If prosecution of the project work results in damages to existing FAA equipment or cables, the Contractor shall repair the damaged item in conformance with FAA Airway Facilities' standards to the satisfaction of the above named FAA Point-of-Contact.
- e. If the project work requires the cutting or splicing of FAA owned cables, the above named FAA Point-of-Contact shall be contacted a minimum of 48 hours prior to the time the cable work commences. The FAA reserves the right to have a FAA Airway Facilities representative on site to observe the splicing of the cables as a condition of acceptance. All cable splices are to be accomplished in accordance with FAA Airway Facilities' specifications and require approval by the above named FAA Point-of-Contact as a condition of acceptance by the Owner. The Contractor is hereby advised that FAA Airway Facilities restricts the location of where splices may be installed. If a cable splice is required in a location that is not permitted by FAA Airway Facilities, the Contractor shall furnish and install a sufficient length of new cable that eliminates the need for any splice.

70-16 FURNISHING RIGHTS-OF-WAY. The Owner will be responsible for furnishing all rights-of-way upon which the work is to be constructed in advance of the Contractor's operations.

70-17 PERSONAL LIABILITY OF PUBLIC OFFICIALS. In carrying out any of the contract provisions or in exercising any power or authority granted to him by this contract, there shall be no liability upon the Engineer, his/her authorized representatives, or any officials of the Owner either personally or as an official of the Owner. It is understood that in such matters they act solely as agents and representatives of the Owner.

70-18 NO WAIVER OF LEGAL RIGHTS. Upon completion of the work, the Owner will expeditiously make final inspection and notify the Contractor of final acceptance. Such final acceptance, however, shall not preclude or stop the Owner from correcting any measurement, estimate, or certificate made before or after completion of the work, nor shall the Owner be precluded or stopped from recovering from the Contractor or his/her surety, or both, such overpayment as may be sustained, or by failure on the part of the Contractor to fulfill his/her obligations under the contract. A waiver on the part of the Owner of any breach of any part of the contract shall not be held to be a waiver of any other or subsequent breach.

The Contractor, without prejudice to the terms of the contract, shall be liable to the Owner for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the owner's rights under any warranty or guaranty.

70-19 ENVIRONMENTAL PROTECTION. The Contractor shall comply with all Federal, state, and local laws and regulations controlling pollution of the environment. He shall take necessary precautions to prevent pollution of streams, lakes, ponds, and reservoirs with fuels, oils, bitumens, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

The Contractor shall conform to FAA's AC 150/5370-7, Airport Construction Controls to prevent air and water pollution.

70-20 ARCHAEOLOGICAL AND HISTORICAL FINDINGS. Unless otherwise specified in this subsection, the Contractor is advised that the site of the work is not within any property, district, or site, and does not contain any building, structure, or object listed in the current National Register of Historic Places published by the United States Department of Interior.

Should the Contractor encounter, during his/her operations, any building, part of a building, structure, or object that is incongruous with its surroundings, he shall immediately cease operations in that location and notify the Engineer. The Engineer will immediately investigate the Contractor's finding and the Owner will direct the Contractor to either resume his/her operations or to suspend operations as directed.

Should the Owner order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such shall be covered by an appropriate contract modification (change order or supplemental agreement) as provided in the subsection titled EXTRA WORK of Section 40 and the subsection titled PAYMENT FOR EXTRA WORK AND FORCE ACCOUNT WORK of Section 90. If appropriate, the contract modification shall include an extension of contract time in accordance with the subsection titled DETERMINATION AND EXTENSION OF CONTRACT TIME of Section 80.

END OF SECTION 70

SECTION 80 PROSECUTION AND PROGRESS

80-01 SUBLETTING OF CONTRACT. The Owner will not recognize any subcontractor on the work. The Contractor shall at all times when work is in progress be represented either in person, by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Engineer.

Should the Contractor elect to assign his/her contract, said assignment shall be concurred in by the surety, shall be presented for the consideration and approval of the Owner, and shall be consummated only on the written approval of the Owner. In case of approval, the Contractor shall file copies of all subcontracts with the Engineer.

The Contractor shall perform, with his organization, an amount of work equal to at least 25 percent of the total contract cost.

80-02 NOTICE TO PROCEED. The notice to proceed shall state the date on which it is expected the Contractor will begin the construction and from which date contract time will be charged. The Contractor shall begin the work to be performed under the contract within 10 days of the date set by the Engineer in the written notice to proceed, but in any event, the Contractor shall notify the Engineer at least 24 hours in advance of the time actual construction operations will begin.

80-03 PROSECUTION AND PROGRESS. Unless otherwise specified, the Contractor shall submit his/her progress schedule for the Engineer's approval within 10 days after the effective date of the notice to proceed. The Contractor's progress schedule, when approved by the Engineer, may be used to establish major construction operations and to check on the progress of the work. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the plans and specifications within the time set forth in the proposal.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the Engineer's request, submit a revised schedule for completion of the work within the contract time and modify his/her operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the prosecution of the work be discontinued for any reason, the Contractor shall notify the Engineer at least 24 hours in advance of resuming operations.

For AIP contracts, the Contractor shall not commence any actual construction prior to the date on which the notice to proceed is issued by the Owner.

80-04 LIMITATION OF OPERATIONS. The Contractor shall control his/her operations and the operations of his/her subcontractors and all suppliers so as to provide for the free and unobstructed movement of aircraft in the AIR OPERATIONS AREAS of the airport.

When the work requires the Contractor to conduct his/her operations within an AIR OPERATIONS AREA of the airport, the work shall be coordinated with airport operations (through the Engineer) at least 48 hours prior to commencement of such work. The Contractor shall not close an AIR OPERATIONS AREA until so authorized by the Engineer and until the necessary temporary marking and associated lighting is in place as provided in the subsection titled BARRICADES, WARNING SIGNS, AND HAZARD MARKINGS of Section 70.

When the contract work requires the Contractor to work within an AIR OPERATIONS AREA (AOA) of the airport on an intermittent basis (intermittent opening and closing of the AIR OPERATIONS AREA), the Contractor shall maintain constant communications as hereinafter specified; immediately obey all instructions to vacate the AIR OPERATIONS AREA; immediately obey all instructions to resume work in such AIR OPERATIONS AREA. Failure to maintain the specified communications or to obey instructions

shall be cause for suspension of the Contractor's operations in the AIR OPERATIONS AREA until the satisfactory conditions are provided.

Contractor shall be required to conform to safety standards contained in AC 150/5370-2, Operational Safety on Airports During Construction (See Special Provisions).

80-04.1 OPERATIONAL SAFETY ON AIRPORT DURING CONSTRUCTION. All Contractors' operations shall be conducted in accordance with the project safety plan and the provisions set forth within the current version of Advisory Circular 150/5370-2. The safety plan included within the contract documents conveys minimum requirements for operational safety on the airport during construction activities. The Contractor shall prepare and submit a plan that details how it proposes to comply with the requirements presented within the safety plan.

The Contractor shall implement all necessary safety plan measures prior to commencement of any work activity. The Contractor shall conduct routine checks of the safety plan measures to assure compliance with the safety plan measures.

The Contractor is responsible to the Owner for the conduct of all subcontractors it employs on the project. The Contractor shall assure that all subcontractors are made aware of the requirements of the safety plan and that they implement and maintain all necessary measures.

No deviation or modifications may be made to the approved safety plan unless approved in writing by the Owner or Engineer.

80-05 CHARACTER OF WORKERS, METHODS, AND EQUIPMENT. The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the contract, plans, and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

Any person employed by the Contractor or by any subcontractor who violates any operational regulations and, in the opinion of the Engineer, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without approval of the Engineer.

Should the Contractor fail to remove such persons or person, or fail to furnish suitable and sufficient personnel for the proper prosecution of the work, the Engineer may suspend the work by written notice until compliance with such orders.

All equipment that is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the work shall be such that no injury to previously completed work, adjacent property, or existing airport facilities will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the contract, plans, and specifications.

When the contract specifies the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized by the Engineer. If the Contractor desires to use a method or type of equipment other than specified in the contract, he may request authority from the Engineer to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the

condition that the Contractor will be fully responsible for producing work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the Engineer determines that the work produced does not meet contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of specified quality, or take such other corrective action as the Engineer may direct. No change will be made in basis of payment for the contract items involved nor in contract time as a result of authorizing a change in methods or equipment under this subsection.

80-06 TEMPORARY SUSPENSION OF THE WORK. The Owner shall have the authority to suspend the work wholly, or in part, for such period or periods as he may deem necessary, due to unsuitable weather, or such other conditions as are considered unfavorable for the prosecution of the work, or for such time as is necessary due to the failure on the part of the Contractor to carry out orders given or perform any or all provisions of the contract.

In the event that the Contractor is ordered by the Owner, in writing, to suspend work for some unforeseen cause not otherwise provided for in the contract and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the Engineer's order to suspend work to the effective date of the Engineer's order to resume the work. Claims for such compensation shall be filed with the Engineer within the time period stated in the Engineer's order to resume work. The Contractor shall submit with his/her claim information substantiating the amount shown on the claim. The Engineer will forward the Contractor's claim to the Owner for consideration in accordance with local laws or ordinances. No provision of this article shall be construed as entitling the Contractor to compensation for delays due to inclement weather, for suspensions made at the request of the Owner, or for any other delay provided for in the contract, plans, or specifications.

If it should become necessary to suspend work for an indefinite period, the Contractor shall store all materials in such manner that they will not become an obstruction nor become damaged in any way. He shall take every precaution to prevent damage or deterioration of the work performed and provide for normal drainage of the work. The Contractor shall erect temporary structures where necessary to provide for traffic on, to, or from the airport.

80-07 DETERMINATION AND EXTENSION OF CONTRACT TIME. The number of calendar or working days allowed for completion of the work shall be stated in the proposal and contract and shall be known as the CONTRACT TIME.

Should the contract time require extension for reasons beyond the Contractor's control, it shall be adjusted as follows:

a. CONTRACT TIME based on WORKING DAYS shall be calculated weekly by the Engineer. The Engineer will furnish the Contractor a copy of his/her weekly statement of the number of working days charged against the contract time during the week and the number of working days currently specified for completion of the contract (the original contract time plus the number of working days, if any, that have been included in approved CHANGE ORDERS or SUPPLEMENTAL AGREEMENTS covering EXTRA WORK).

The Engineer shall base his/her weekly statement of contract time charged on the following considerations:

(1) No time shall be charged for days on which the Contractor is unable to proceed with the principal item of work under construction at the time for at least 6 hours with the normal work force employed on such principal item. Should the normal work force be on a double-shift, 12 hours shall be used. Should the normal work force be on a triple-shift, 18 hours shall apply. Conditions beyond the Contractor's control such as strikes, lockouts, unusual delays in

transportation, temporary suspension of the principal item of work under construction or temporary suspension of the entire work which have been ordered by the Owner for reasons not the fault of the Contractor, shall not be charged against the contract time.

(2) The Engineer will not make charges against the contract time prior to the effective date of the notice to proceed.

(3) The Engineer will begin charges against the contract time on the first working day after the effective date of the notice to proceed.

(4) The Engineer will not make charges against the contract time after the date of final acceptance as defined in the subsection titled FINAL ACCEPTANCE of Section 50.

(5) The Contractor will be allowed 1 week in which to file a written protest setting forth his/her objections to the Engineer's weekly statement. If no objection is filed within such specified time, the weekly statement shall be considered as acceptable to the Contractor.

The contract time (stated in the proposal) is based on the originally estimated quantities as described in the subsection titled INTERPRETATION OF ESTIMATED PROPOSAL QUANTITIES of Section 20. Should the satisfactory completion of the contract require performance of work in greater quantities than those estimated in the proposal, the contract time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in contract time shall not consider either the cost of work or the extension of contract time that has been covered by change order or supplemental agreement and shall be made at the time of final payment.

b. CONTRACT TIME based on CALENDAR DAYS shall consist of the number of calendar days stated in the contract counting from the effective date of the notice to proceed and including all Saturdays, Sundays, holidays, and nonwork days. All calendar days elapsing between the effective dates of the Owner's orders to suspend and resume all work, due to causes not the fault of the Contractor, shall be excluded.

At the time of final payment, the contract time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in the contract time shall not consider either cost of work or the extension of contract time that has been covered by a change order or supplemental agreement. Charges against the contract time will cease as of the date of final acceptance.

c. When the contract time is a specified completion date, it shall be the date on which all contract work shall be substantially completed.

If the Contractor finds it impossible for reasons beyond his/her control to complete the work within the contract time as specified, or as extended in accordance with the provisions of this subsection, he may, at any time prior to the expiration of the contract time as extended, make a written request to the Engineer for an extension of time setting forth the reasons which he believes will justify the granting of his/her request. Requests for extension of time on calendar day projects, caused by inclement weather, shall be supported with National Weather Bureau data showing the actual amount of inclement weather exceeded which could normally be expected during the contract period. The Contractor's plea that insufficient time was specified is not a valid reason for extension of time. If the Engineer finds that the work was delayed because of conditions beyond the control and without the fault of the Contractor, he may extend the time for completion in such amount as the conditions justify. The extended time for completion shall then be in full force and effect, the same as though it were the original time for completion.

80-08 FAILURE TO COMPLETE ON TIME. For each calendar day or working day, as specified in the contract, that any work remains uncompleted after the contract time (including all extensions and adjustments as provided in the subsection titled DETERMINATION AND EXTENSION OF CONTRACT

TIME of this Section) the sum specified in the contract and proposal as liquidated damages will be deducted from any money due or to become due the Contractor or his/her surety. Such deducted sums shall not be deducted as a penalty but shall be considered as liquidation of a reasonable portion of damages including but not limited to additional engineering services that will be incurred by the Owner should the Contractor fail to complete the work in the time provided in his/her contract.

Permitting the Contractor to continue and finish the work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way operate as a waiver on the part of the Owner of any of its rights under the contract.

In the event the Contractor fails to complete the Work, hereunder within the minimum time fixed in these specifications plus the total of any authorized extensions, a sum as determined according to Section 1-06.9 of the Washington State Department of Transportation Standard Specifications formula for liquidated damages shall be deducted from monies otherwise due to become due the Contractor under this contract.

80-09 DEFAULT AND TERMINATION OF CONTRACT. The Contractor shall be considered in default of his/her contract and such default will be considered as cause for the Owner to terminate the contract for any of the following reasons if the Contractor:

- a. Fails to begin the work under the contract within the time specified in the "Notice to Proceed,"
or
- b. Fails to perform the work or fails to provide sufficient workers, equipment or materials to assure completion of work in accordance with the terms of the contract, or
- c. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- d. Discontinues the prosecution of the work, or
- e. Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- g. Allows any final judgment to stand against him unsatisfied for a period of 10 days, or
- h. Makes an assignment for the benefit of creditors, or
- i. For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Should the Engineer consider the Contractor in default of the contract for any reason hereinbefore, he shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If the Contractor or surety, within a period of 10 days after such notice, does not proceed in accordance therewith, then the Owner will, upon written notification from the Engineer of the facts of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the prosecution of the work out of the hands of the Contractor. The Owner may appropriate or use any or all materials and equipment that have been mobilized for use in the work and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Engineer will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

80-10 TERMINATION FOR NATIONAL EMERGENCIES. The Owner shall terminate the contract or portion thereof by written notice when the Contractor is prevented from proceeding with the construction contract as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense.

When the contract, or any portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the actual number of units or items of work completed at the contract price or as mutually agreed for items of work partially completed or not started. No claims or loss of anticipated profits shall be considered.

Reimbursement for organization of the work, and other overhead expenses, (when not otherwise included in the contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained or ordered by the Contractor for the work and that are not incorporated in the work shall, at the option of the Contractor, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the Engineer.

Termination of the contract or a portion thereof shall neither relieve the Contractor of his/her responsibilities for the completed work nor shall it relieve his/her surety of its obligation for and concerning any just claim arising out of the work performed.

80-11 WORK AREA, STORAGE AREA AND SEQUENCE OF OPERATIONS. The Contractor shall obtain approval from the Engineer prior to beginning any work in all areas of the airport. No operating runway, taxiway, or Air Operations Area (AOA) shall be crossed, entered, or obstructed while it is operational. The Contractor shall plan and coordinate his/her work in such a manner as to insure safety and a minimum of hindrance to flight operations. All Contractor equipment and material stockpiles shall be stored a minimum of [] feet from the centerline of an active runway. No equipment will be allowed to park within the approach area of an active runway at any time. No equipment shall be within [] feet of an active runway at any time.

END OF SECTION 80

SECTION 90 MEASUREMENT AND PAYMENT

90-01 MEASUREMENT OF QUANTITIES. All work completed under the contract will be measured by the Engineer, or his/her authorized representatives, using United States Customary Units of Measurement or the International System of Units.

The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 square feet (0.8 square meter) or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing by the Engineer.

Structures will be measured according to neat lines shown on the plans or as altered to fit field conditions.

Unless otherwise specified, all contract items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

In computing volumes of excavation the average end area method or other acceptable methods will be used.

The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of inches.

The term "ton" will mean the short ton consisting of 2,000 pounds (907 kilograms) avoirdupois. All materials that are measured or proportioned by weights shall be weighed on accurate, approved scales by competent, qualified personnel at locations designed by the Engineer. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material is paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty daily at such times as the Engineer directs, and each truck shall bear a plainly legible identification mark.

Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable to the Engineer, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.

When requested by the Contractor and approved by the Engineer in writing, material specified to be measured by the cubic yard (cubic meter) may be weighed, and such weights will be converted to cubic yards (cubic meters) for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Engineer and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

Bituminous materials will be measured by the gallon (liter) or ton (kilogram). When measured by volume, such volumes will be measured at 60 F (15 C) or will be corrected to the volume at 60 F (15 C) using ASTM D 1250 for asphalts or ASTM D 633 for tars.

Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when bituminous material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work.

When bituminous materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, may be used for computing quantities.

Cement will be measured by the ton (kilogram) or hundredweight (kilogram).

Timber will be measured by the thousand feet board measure (M.F.B.M.) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the work described in the contract.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

Rental of equipment will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the work. Special equipment ordered by the Engineer in connection with force account work will be measured as agreed in the change order or supplemental agreement authorizing such force account work as provided in the subsection titled PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK of this section.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gage, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.

Scales for weighing materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the Contractor, or be certified permanently installed commercial scales.

Scales shall be accurate within one-half percent of the correct weight throughout the range of use. The Contractor shall have the scales checked under the observation of the inspector before beginning work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed one-tenth of 1 percent of the nominal rated capacity of the scale, but not less than 1 pound (454 grams). The use of spring balances will not be permitted.

Beams, dials, platforms, and other scale equipment shall be so arranged that the operator and the inspector can safely and conveniently view them.

Scale installations shall have available ten standard 50-pound (2.3 kilogram) weights for testing the weighing equipment or suitable weights and devices for other approved equipment.

Scales must be tested for accuracy and serviced before use at a new site. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end.

Scales "overweighing" (indicating more than correct weight) will not be permitted to operate, and all materials received subsequent to the last previous correct weighting-accuracy test will be reduced by the percentage of error in excess of one-half of 1 percent.

In the event inspection reveals the scales have been "underweighing" (indicating less than correct weight), they shall be adjusted, and no additional payment to the Contractor will be allowed for materials previously weighed and recorded.

All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other items specified in this subsection, for the weighing of materials for proportioning or payment, shall be included in the unit contract prices for the various items of the project.

When the estimated quantities for a specific portion of the work are designated as the pay quantities in the contract, they shall be the final quantities for which payment for such specific portion of the work will be made, unless the dimensions of said portions of the work shown on the plans are revised by the Engineer. If revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.

90-02 SCOPE OF PAYMENT. The Contractor shall receive and accept compensation provided for in the contract as full payment for furnishing all materials, for performing all work under the contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, subject to the provisions of the subsection titled NO WAIVER OF LEGAL RIGHTS of Section 70.

When the "basis of payment" subsection of a technical specification requires that the contract price (price bid) include compensation for certain work or material essential to the item, this same work or material will not also be measured for payment under any other contract item which may appear elsewhere in the contract, plans, or specifications.

90-03 COMPENSATION FOR ALTERED QUANTITIES. When the accepted quantities of work vary from the quantities in the proposal, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the original contract price for the accepted quantities of work actually completed and accepted. No allowance, except as provided for in the subsection titled ALTERATION OF WORK AND QUANTITIES of Section 40 will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly from such alterations or indirectly from his/her unbalanced allocation of overhead and profit among the contract items, or from any other cause.

90-04 PAYMENT FOR OMITTED ITEMS. As specified in the subsection titled OMITTED ITEMS of Section 40, the Engineer shall have the right to omit from the work (order nonperformance) any contract item, except major contract items, in the best interest of the Owner.

Should the Engineer omit or order nonperformance of a contract item or portion of such item from the work, the Contractor shall accept payment in full at the contract prices for any work actually completed and acceptable prior to the Engineer's order to omit or nonperform such contract item.

Acceptable materials ordered by the Contractor or delivered on the work prior to the date of the Engineer's order will be paid for at the actual cost to the Contractor and shall thereupon become the property of the Owner.

In addition to the reimbursement hereinbefore provided, the Contractor shall be reimbursed for all actual costs incurred for the purpose of performing the omitted contract item prior to the date of the Engineer's order. Such additional costs incurred by the Contractor must be directly related to the deleted contract item and shall be supported by certified statements by the Contractor as to the nature the amount of such costs.

90-05 PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK. Extra work, performed in accordance with the subsection titled EXTRA WORK of Section 40, will be paid for at the contract prices or agreed

prices specified in the change order or supplemental agreement authorizing the extra work. When the change order or supplemental agreement authorizing the extra work requires that it be done by force account, such force account shall be measured and paid for based on expended labor, equipment, and materials plus a negotiated and agreed upon allowance for overhead and profit.

a. Miscellaneous. No additional allowance will be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided.

b. Comparison of Record. The Contractor and the Engineer shall compare records of the cost of force account work at the end of each day. Agreement shall be indicated by signature of the Contractor and the Engineer or their duly authorized representatives.

c. Statement. No payment will be made for work performed on a force account basis until the Contractor has furnished the Engineer with duplicate itemized statements of the cost of such force account work detailed as follows:

(1) Name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.

(2) Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.

(3) Quantities of materials, prices, and extensions.

(4) Transportation of materials.

(5) Cost of property damage, liability and workman's compensation insurance premiums, unemployment insurance contributions, and social security tax.

Statements shall be accompanied and supported by a receipted invoice for all materials used and transportation charges. However, if materials used on the force account work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the invoices the Contractor shall furnish an affidavit certifying that such materials were taken from his/her stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the Contractor.

90-06 PARTIAL PAYMENTS. Partial payments will be made at least once each month as the work progresses. Said payments will be based upon estimates prepared by the Engineer of the value of the work performed and materials complete in place in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with the subsection titled PAYMENT FOR MATERIALS ON HAND of this section.

No partial payment will be made when the amount due the Contractor since the last estimate amounts to less than five hundred dollars.

From the total of the amount determined to be payable on a partial payment, 10 percent of such total amount will be deducted and retained by the Owner until the final payment is made, except as may be provided (at the Contractor's option) in the subsection titled PAYMENT OF WITHHELD FUNDS of this section. The balance (90 percent) of the amount payable, less all previous payments, shall be certified for payment. Should the Contractor exercise his/her option, as provided in the subsection titled PAYMENT OF WITHHELD FUNDS of this section, no such 10 percent retainage shall be deducted.

When not less than 95 percent of the work has been completed, the Engineer may, at the Owner's discretion and with the consent of the surety, prepare an estimate from which will be retained an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be

done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the Engineer to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in the subsection titled ACCEPTANCE AND FINAL PAYMENT of this section.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final retained percentage or final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

90-07 PAYMENT FOR MATERIALS ON HAND. Partial payments may be made to the extent of the delivered cost of materials to be incorporated in the work, provided that such materials meet the requirements of the contract, plans, and specifications and are delivered to acceptable sites on the airport property or at other sites in the vicinity that are acceptable to the Owner. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

a. The material has been stored or stockpiled in a manner acceptable to the Engineer at or on an approved site.

b. The Contractor has furnished the Engineer with acceptable evidence of the quantity and quality of such stored or stockpiled materials.

c. The Contractor has furnished the Engineer with satisfactory evidence that the material and transportation costs have been paid.

d. The Contractor has furnished the Owner legal title (free of liens or encumbrances of any kind) to the material so stored or stockpiled.

e. The Contractor has furnished the Owner evidence that the material so stored or stockpiled is insured against loss by damage to or disappearance of such materials at anytime prior to use in the work.

It is understood and agreed that the transfer of title and the Owner's payment for such stored or stockpiled materials shall in no way relieve the Contractor of his/her responsibility for furnishing and placing such materials in accordance with the requirements of the contract, plans, and specifications.

In no case will the amount of partial payments for materials on hand exceed the contract price for such materials or the contract price for the contract item in which the material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant materials.

The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this subsection.

90-08 PAYMENT OF WITHHELD FUNDS. At the Contractor's option, he/she may request that the Owner accept (in lieu of the 10 percent retainage on partial payments described in the subsection titled PARTIAL PAYMENTS of this section) the Contractor's deposits in escrow under the following conditions.

a. The Contractor shall bear all expenses of establishing and maintaining an escrow account and escrow agreement acceptable to the Owner.

b. The Contractor shall deposit to and maintain in such escrow only those securities or bank certificates of deposit as are acceptable to the Owner and having a value not less than the 10 percent retainage that would otherwise be withheld from partial payment.

c. The Contractor shall enter into an escrow agreement satisfactory to the Owner.

d. The Contractor shall obtain the written consent of the surety to such agreement.

90-09 ACCEPTANCE AND FINAL PAYMENT. When the contract work has been accepted in accordance with the requirements of the subsection titled FINAL ACCEPTANCE of Section 50, the Engineer will prepare the final estimate of the items of work actually performed. The Contractor shall approve the Engineer's final estimate or advise the Engineer of his/her objections to the final estimate which are based on disputes in measurements or computations of the final quantities to be paid under the contract as amended by change order or supplemental agreement. The Contractor and the Engineer shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within 30 calendar days of the Contractor's receipt of the Engineer's final estimate. If, after such 30-day period, a dispute still exists, the Contractor may approve the Engineer's estimate under protest of the quantities in dispute, and such disputed quantities shall be considered by the Owner as a claim in accordance with the subsection titled CLAIMS FOR ADJUSTMENT AND DISPUTES of Section 50.

After the Contractor has approved, or approved under protest, the Engineer's final estimate, final payment will be processed based on the entire sum, or the undisputed sum in case of approval under protest, determined to be due the Contractor less all previous payments and all amounts to be deducted under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

If the Contractor has filed a claim for additional compensation under the provisions of the subsection titled CLAIMS FOR ADJUSTMENTS AND DISPUTES of Section 50 or under the provisions of this subsection, such claims will be considered by the Owner in accordance with local laws or ordinances. Upon final adjudication of such claims, any additional payment determined to be due the Contractor will be paid pursuant to a supplemental final estimate.

END OF SECTION 90

SECTION 100 CONTRACTOR QUALITY CONTROL PROGRAM

100-01 GENERAL. When the specification requires a Contractor Quality Control Program, the Contractor shall establish, provide, and maintain an effective Quality Control Program that details the methods and procedures that will be taken to assure that all materials and completed construction required by this contract conform to contract plans, technical specifications and other requirements, whether manufactured by the Contractor, or procured from subcontractors or vendors. Although guidelines are established and certain minimum requirements are specified herein and elsewhere in the contract technical specifications, the Contractor shall assume full responsibility for accomplishing the stated purpose.

The intent of this section is to enable the Contractor to establish a necessary level of control that will:

- a. Adequately provide for the production of acceptable quality materials.
- b. Provide sufficient information to assure both the Contractor and the Engineer that the specification requirements can be met.
- c. Allow the Contractor as much latitude as possible to develop his or her own standard of control.

The Contractor shall be prepared to discuss and present, at the preconstruction conference, his/her understanding of the quality control requirements. The Contractor shall not begin any construction or production of materials to be incorporated into the completed work until the Quality Control Program has been reviewed by the Engineer. No partial payment will be made for materials subject to specific quality control requirements until the Quality Control Program has been reviewed.

The quality control requirements contained in this section and elsewhere in the contract technical specifications are in addition to and separate from the acceptance testing requirements. Acceptance testing requirements are the responsibility of the Engineer.

100-02 DESCRIPTION OF PROGRAM.

a. General Description. The Contractor shall establish a Quality Control Program to perform inspection and testing of all items of work required by the technical specifications, including those performed by subcontractors. This Quality Control Program shall ensure conformance to applicable specifications and plans with respect to materials, workmanship, construction, finish, and functional performance. The Quality Control Program shall be effective for control of all construction work performed under this Contract and shall specifically include surveillance and tests required by the technical specifications, in addition to other requirements of this section and any other activities deemed necessary by the Contractor to establish an effective level of quality control.

b. Quality Control Program. The Contractor shall describe the Quality Control Program in a written document that shall be reviewed by the Engineer prior to the start of any production, construction, or off-site fabrication. The written Quality Control Program shall be submitted to the Engineer for review at least 7 calendar days before the preconstruction conference.

The Quality Control Program shall be organized to address, as a minimum, the following items:

- a. Quality control organization;
- b. Project progress schedule;

- c. Submittals schedule;
- d. Inspection requirements;
- e. Quality control testing plan;
- f. Documentation of quality control activities; and
- g. Requirements for corrective action when quality control and/or acceptance criteria are not met.

The Contractor is encouraged to add any additional elements to the Quality Control Program that he/she deems necessary to adequately control all production and/or construction processes required by this contract.

100-03 QUALITY CONTROL ORGANIZATION. The Contractor Quality Control Program shall be implemented by the establishment of a separate quality control organization. An organizational chart shall be developed to show all quality control personnel and how these personnel integrate with other management/production and construction functions and personnel.

The organizational chart shall identify all quality control staff by name and function, and shall indicate the total staff required to implement all elements of the Quality Control Program, including inspection and testing for each item of work. If necessary, different technicians can be utilized for specific inspection and testing functions for different items of work. If an outside organization or independent testing laboratory is used for implementation of all or part of the Quality Control Program, the personnel assigned shall be subject to the qualification requirements of paragraph 100-03a and 100-03b. The organizational chart shall indicate which personnel are Contractor employees and which are provided by an outside organization.

The quality control organization shall consist of the following minimum personnel:

a. Program Administrator. The Program Administrator shall be a full-time employee of the Contractor, or a consultant engaged by the Contractor. The Program Administrator shall have a minimum of 5 years of experience in airport and/or highway construction and shall have had prior quality control experience on a project of comparable size and scope as the contract.

Additional qualifications for the Program Administrator shall include at least 1 of the following requirements:

- (1) Professional engineer with 1 year of airport paving experience acceptable to the Engineer.
- (2) Engineer-in-training with 2 years of airport paving experience acceptable to the Engineer.
- (3) An individual with 3 years of highway and/or airport paving experience acceptable to the Engineer, with a Bachelor of Science Degree in Civil Engineering, Civil Engineering Technology or Construction.
- (4) Construction materials technician certified at Level III by the National Institute for Certification in Engineering Technologies (NICET).
- (5) Highway materials technician certified at Level III by NICET.
- (6) Highway construction technician certified at Level III by NICET.
- (7) A NICET certified engineering technician in Civil Engineering Technology with 5 years of highway and/or airport paving experience acceptable to the Engineer.

The Program Administrator shall have full authority to institute any and all actions necessary for the successful implementation of the Quality Control Program to ensure compliance with the contract plans and technical specifications. The Program Administrator shall report directly to a responsible officer of the construction firm. The Program Administrator may supervise the Quality Control Program on more than one project provided that person can be at the job site within 2 hours after being notified of a problem.

b. Quality Control Technicians. A sufficient number of quality control technicians necessary to adequately implement the Quality Control Program shall be provided. These personnel shall be either engineers, engineering technicians, or experienced craftsman with qualifications in the appropriate field equivalent to NICET Level II or higher construction materials technician or highway construction technician and shall have a minimum of 2 years of experience in their area of expertise.

The quality control technicians shall report directly to the Program Administrator and shall perform the following functions:

- (1) Inspection of all materials, construction, plant, and equipment for conformance to the technical specifications, and as required by Section 100-06.
- (2) Performance of all quality control tests as required by the technical specifications and Section 100-07.

Certification at an equivalent level, by a state or nationally recognized organization will be acceptable in lieu of NICET certification.

c. Staffing Levels. The Contractor shall provide sufficient qualified quality control personnel to monitor each work activity at all times. Where material is being produced in a plant for incorporation into the work, separate plant and field technicians shall be provided at each plant and field placement location. The scheduling and coordinating of all inspection and testing must match the type and pace of work activity. The Quality Control Program shall state where different technicians will be required for different work elements.

100-04 PROJECT PROGRESS SCHEDULE. The Contractor shall submit a coordinated construction schedule for all work activities. The schedule shall be prepared as a network diagram in Critical Path Method (CPM), PERT, or other format, or as otherwise specified in the contract. As a minimum, it shall provide information on the sequence of work activities, milestone dates, and activity duration.

The Contractor shall maintain the work schedule and provide an update and analysis of the progress schedule on a twice monthly basis, or as otherwise specified in the contract. Submission of the work schedule shall not relieve the Contractor of overall responsibility for scheduling, sequencing, and coordinating all work to comply with the requirements of the contract.

100-05 SUBMITTALS SCHEDULE. The Contractor shall submit a detailed listing of all submittals (e.g., mix designs, material certifications) and shop drawings required by the technical specifications. The listing can be developed in a spreadsheet format and shall include:

- a. Specification item number;
- b. Item description;
- c. Description of submittal;
- d. Specification paragraph requiring submittal; and
- e. Scheduled date of submittal.

100-06 INSPECTION REQUIREMENTS. Quality control inspection functions shall be organized to provide inspections for all definable features of work, as detailed below. All inspections shall be documented by the Contractor as specified by Section 100-07.

Inspections shall be performed daily to ensure continuing compliance with contract requirements until completion of the particular feature of work. These shall include the following minimum requirements:

- a. During plant operation for material production, quality control test results and periodic inspections shall be utilized to ensure the quality of aggregates and other mix components, and to adjust and control mix proportioning to meet the approved mix design and other requirements of the technical specifications. All equipment utilized in proportioning and mixing shall be inspected to ensure its proper operating condition. The Quality Control Program shall detail how these and other quality control functions will be accomplished and utilized.
- b. During field operations, quality control test results and periodic inspections shall be utilized to ensure the quality of all materials and workmanship. All equipment utilized in placing, finishing, and compacting shall be inspected to ensure its proper operating condition and to ensure that all such operations are in conformance to the technical specifications and are within the plan dimensions, lines, grades, and tolerances specified. The Program shall document how these and other quality control functions will be accomplished and utilized.

100-07 QUALITY CONTROL TESTING PLAN. As a part of the overall Quality Control Program, the Contractor shall implement a quality control testing plan, as required by the technical specifications. The testing plan shall include the minimum tests and test frequencies required by each technical specification Item, as well as any additional quality control tests that the Contractor deems necessary to adequately control production and/or construction processes.

The testing plan can be developed in a spreadsheet fashion and shall, as a minimum, include the following:

- a. Specification item number (e.g., P-401);
- b. Item description (e.g., Plant Mix Bituminous Pavements);
- c. Test type (e.g., gradation, grade, asphalt content);
- d. Test standard (e.g., ASTM or AASHTO test number, as applicable);
- e. Test frequency (e.g., as required by technical specifications or minimum frequency when requirements are not stated);
- f. Responsibility (e.g., plant technician); and
- g. Control requirements (e.g., target, permissible deviations).

The testing plan shall contain a statistically-based procedure of random sampling for acquiring test samples in accordance with ASTM D 3665. The Engineer shall be provided the opportunity to witness quality control sampling and testing.

All quality control test results shall be documented by the Contractor as required by Section 100-08.

100-08 DOCUMENTATION. The Contractor shall maintain current quality control records of all inspections and tests performed. These records shall include factual evidence that the required inspections or tests have been performed, including type and number of inspections or tests involved; results of inspections or tests; nature of defects, deviations, causes for rejection, etc.; proposed remedial action; and corrective actions taken.

These records must cover both conforming and defective or deficient features, and must include a statement that all supplies and materials incorporated in the work are in full compliance with the terms of the contract. Legible copies of these records shall be furnished to the Engineer daily. The records shall cover all work placed subsequent to the previously furnished records and shall be verified and signed by the Contractor's Program Administrator.

Specific Contractor quality control records required for the contract shall include, but are not necessarily limited to, the following records:

a. Daily Inspection Reports. Each Contractor quality control technician shall maintain a daily log of all inspections performed for both Contractor and subcontractor operations on a form acceptable to the Engineer. These technician's daily reports shall provide factual evidence that continuous quality control inspections have been performed and shall, as a minimum, include the following:

- (1) Technical specification item number and description;
- (2) Compliance with approved submittals;
- (3) Proper storage of materials and equipment;
- (4) Proper operation of all equipment;
- (5) Adherence to plans and technical specifications;
- (6) Review of quality control tests; and
- (7) Safety inspection.

The daily inspection reports shall identify inspections conducted, results of inspections, location and nature of defects found, causes for rejection, and remedial or corrective actions taken or proposed.

The daily inspection reports shall be signed by the responsible quality control technician and the Program Administrator. The Engineer shall be provided at least one copy of each daily inspection report on the work day following the day of record.

b. Daily Test Reports. The Contractor shall be responsible for establishing a system that will record all quality control test results. Daily test reports shall document the following information:

- (1) Technical specification item number and description;
- (2) Test designation;
- (3) Location;
- (4) Date of test;
- (5) Control requirements;
- (6) Test results;
- (7) Causes for rejection;
- (8) Recommended remedial actions; and
- (9) Retests.

Test results from each day's work period shall be submitted to the Engineer prior to the start of the next day's work period. When required by the technical specifications, the Contractor shall maintain statistical quality control charts. The daily test reports shall be signed by the responsible quality control technician and the Program Administrator.

100-09 CORRECTIVE ACTION REQUIREMENTS. The Quality Control Program shall indicate the appropriate action to be taken when a process is deemed, or believed, to be out of control (out of tolerance) and detail what action will be taken to bring the process into control. The requirements for corrective action shall include both general requirements for operation of the Quality Control Program as a whole, and for individual items of work contained in the technical specifications.

The Quality Control Program shall detail how the results of quality control inspections and tests will be used for determining the need for corrective action and shall contain clear sets of rules to gauge when a process is out of control and the type of correction to be taken to regain process control.

When applicable or required by the technical specifications, the Contractor shall establish and utilize statistical quality control charts for individual quality control tests. The requirements for corrective action shall be linked to the control charts.

100-10 SURVEILLANCE BY THE ENGINEER. All items of material and equipment shall be subject to surveillance by the Engineer at the point of production, manufacture or shipment to determine if the

Contractor, producer, manufacturer or shipper maintains an adequate quality control system in conformance with the requirements detailed herein and the applicable technical specifications and plans. In addition, all items of materials, equipment and work in place shall be subject to surveillance by the Engineer at the site for the same purpose.

Surveillance by the Engineer does not relieve the Contractor of performing quality control inspections of either on-site or off-site Contractor's or subcontractor's work.

100-11 NONCOMPLIANCE.

a. The Engineer will notify the Contractor of any noncompliance with any of the foregoing requirements. The Contractor shall, after receipt of such notice, immediately take corrective action. Any notice, when delivered by the Engineer or his/her authorized representative to the Contractor or his/her authorized representative at the site of the work, shall be considered sufficient notice.

b. In cases where quality control activities do not comply with either the Contractor Quality Control Program or the contract provisions, or where the Contractor fails to properly operate and maintain an effective Quality Control Program, as determined by the Engineer, the Engineer may:

(1) Order the Contractor to replace ineffective or unqualified quality control personnel or subcontractors.

(2) Order the Contractor to stop operations until appropriate corrective actions are taken.

END OF SECTION 100

FAA SPECIAL PROVISIONS PROVISIONS FOR ALL CONSTRUCTION CONTRACTS

BUY AMERICAN - STEEL AND MANUFACTURED

(a) The Aviation Safety and Capacity Expansion Act of 1990 provides that preference be given to steel and manufactured products produced in the United States when funds are expended pursuant to a grant issued under the Airport Improvement Program. The following terms apply:

1. **Steel and manufactured products.** As used in this clause, steel and manufactured products include (1) steel produced in the United States or (2) a manufactured product produced in the United States, if the cost of its components mined, produced or manufactured in the United States exceeds 60 percent of the cost of all its components and final assembly has taken place in the United States. Components of foreign origin of the same class or kind as the products referred to in subparagraphs (b) (1) or (2) shall be treated as domestic.
2. **Components.** As used in this clause, components means those articles, materials, and supplies incorporated directly into steel and manufactured products.
3. **Cost of components.** This means the costs for production of the components, exclusive of final assembly labor costs.

(b) The successful bidder will be required to assure that only domestic steel and manufactured products will be used by the Contractor, subcontractors, materialmen, and suppliers in the performance of this contract, except those-

- (1) that the U.S. Department of Transportation has determined, under the Aviation Safety and Capacity Expansion Act of 1990, are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
- (2) that the U.S. Department of Transportation has determined, under the Aviation Safety and Capacity Expansion Act of 1990, that domestic preference would be inconsistent with the public interest; or
- (3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

CIVIL RIGHTS ACT OF 1964, TITLE VI – 49 CFR PART 21

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 shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the regulations.

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

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

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

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

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

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520

The contractor/tenant/concessionaire/lessee assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

(1) No Federal appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

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

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

ACCESS TO RECORDS AND REPORTS

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

DISADVANTAGED BUSINESS ENTERPRISES

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

Prompt Payment (§26.29) - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Chehalis-Centralia Airport. The prime contractor agrees further to return retainage payments to each subcontractor within [specify the same number as above] 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 Chehalis-Centralia Airport. This clause applies to both DBE and non-DBE subcontractors.

ENERGY CONSERVATION REQUIREMENTS

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163)

BREACH OF CONTRACT TERMS

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

RIGHTS TO INVENTIONS

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

TRADE RESTRICTION CLAUSE

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

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49

CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

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

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

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

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

VETERAN'S PREFERENCE

In the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 515(c)(1) and (2) of the Airport and Airway Improvement Act of 1982. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

Additional Provisions for Construction Contracts exceeding \$2,000

DAVIS BACON REQUIREMENTS

1. Minimum Wages

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs

reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2 Withholding.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to David-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph 5.5(a)(3)(i) above. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (3)(i) above and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is

registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance With Copeland Act Requirements.

The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the

compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance With Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**Additional Provisions for
Construction Contracts exceeding \$10,000**

EQUAL EMPLOYMENT OPPORTUNITY - 41 CFR PART 60-1.4(b)

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, 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 s/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, as amended, 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 procedure 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 provision, 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.

CERTIFICATION OF NONSEGREGATED FACILITIES - 41 CFR PART 60-1.8

NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

1. A Certification of Non-segregated Facilities shall be submitted prior to the award of a federally-assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause.

2. Contractors receiving federally-assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Notice to Prospective Subcontractors of Requirements for Certification of Non-Segregated Facilities

1. A Certification of Non-segregated Facilities shall be submitted prior to the award of a subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity Clause.

2. Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed

\$10,000 and are not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

CERTIFICATION OF NONSEGREGATED FACILITIES

The federally-assisted construction contractor certifies that she or he does not maintain or provide, for his employees, any segregated facilities at any of his establishments and that she or he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally-assisted construction contractor certifies that she or he will not maintain or provide, for his employees, segregated facilities at any of his establishments and that she or he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The federally-assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The federally-assisted construction contractor agrees that (except where she or he has obtained identical certifications from proposed subcontractors for specific time periods) she or he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that she or he will retain such certifications in his files.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION - 41 CFR PART 60-2

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	(Vol. 45 Federal Register pg. 65984)
Goals for female participation in each trade	(6.9%)

These goals are applicable to all 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 shall 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, 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

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS - 41 CFR Part 60.4.3

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
 - (1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 18.7a through 18.7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may

be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management

personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (18.7a through 18.7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 18.7a through 18.7p

of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 18.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

TERMINATION OF CONTRACT

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

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

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

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

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

**Additional Provisions for
Construction Contracts exceeding \$25,000**

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

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

**Additional Provisions for
Construction Contracts exceeding \$100,000**

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS 29 CFR PART 5

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

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract

or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

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 section.

CLEAN AIR AND WATER POLLUTION CONTROL

Contractors and subcontractors agree:

- a. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- b. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- c. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- d. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

SUPPLEMENTARY CONDITIONS

SECTION I. BIDDING INFORMATION

Federal Wage Rate Schedules. Add the following:

The Contractor shall pay the highest prevailing wage rate by trade or occupation of either the federal labor rate schedules contained in these documents or as specified by the State of Washington, Department of Labor and Industries. The federal labor rate schedules contained in these documents are current at the time of printing. Latest prevailing wage rates for the State of Washington may be obtained from:

Industrial Statistician
State of Washington, Department of Labor and Industries
Industrial Relations Division, General Administration Building
Olympia, Washington 98504

Any disputes as to wage rates will be referred to the U.S. Secretary of Labor and the Director of Labor and Industries for the State of Washington who will determine the prevailing local wage rate for the trade in dispute.

SECTION III. CONTRACT CONDITIONS

Section 10, Definition of Terms. Add the following:

10-18 ENGINEER:

Any reference in the plans and specifications to the Engineer shall mean Airport Manager. Airport Manager shall be responsible for engineering inspection of the contract work.

10-48 CONTRACT DOCUMENTS:

The "Contract Documents" consist of the Invitation to Bid, the Instructions to Bidders, the Proposal, the Bid Bond, the Contract, the Performance and Payment Bonds, the General Provisions, the Supplementary Conditions, the Specifications, and the Plans, including all modifications thereof incorporated into the documents, before their execution, and including all other requirements incorporated by specific reference thereto. These form the contract.

10-49 SUBSTANTIAL COMPLETION:

Substantial completion shall be that degree of completion of the project or a defined portion of the project, sufficient to enable the Owner, at his discretion, to safely and conveniently use the project or defined portion of the project for the purposes for which it was intended during all hours of operation.

10-50 TIME:

Unless otherwise stated, the term "day" shall be taken to mean a calendar day of 24 hours, beginning at 12:00 midnight. Saturdays, Sundays and holidays shall be included.

Section 20, Proposal Requirements and Conditions

20-02 PREQUALIFICATION OF BIDDERS, Add the following:

All financial evidence will be held confidential.

20-05 INTERPRETATION OF ESTIMATED PROPOSAL QUANTITIES, Page 20-2. Add the following:

This project is primarily funded by the Federal Aviation Administration and the Owner and the amount of funding will be fixed. For this reason, the exact scope of work for this project can only be estimated. The Owner reserves the right to increase or diminish the amount of any class of work, based on actual contract unit prices to match the level of funding.

20-14 STATE AND LOCAL SALES AND USE TAXES, Add the following:

All applicable taxes which the Contractor is required to pay other than the state retail sales tax as hereinafter specified shall be included by him in his various bid prices paid to him under the Contract.

Retail sales tax, when payable by the Owner, will be paid as a separate item and shall not be included in the Contractor's bid prices or on the Contractor's Proposal. The Owner will claim any exemptions from the retail sales tax authorized by law and the Contractor shall determine which activities are subject to tax in order to properly evaluate the work. Any questions regarding sales tax requirements shall be directed to the Washington State Department of Revenue. The Contractor will be responsible for the correct interpretation of any laws or regulations to the application of the state sales tax.

State sale tax shall be paid on monthly partial payments at the time progress payments are made to the Contractor. The state sales tax shall be paid on the amount received by the Contractor and also the percentage retained by the Owner.

Section 30, Award and Execution of Contract

30-02 AWARD OF CONTRACT, Page 30-1, revise as follows:

The award of a contract, if it is to be awarded, shall be made within 90 calendar days of the date specified for publicly opening proposals.

30-04 RETURN OF PROPOSAL GUARANTY, Page 30-1, revise as follows:

Proposal guarantees of unsuccessful bidders will be returned after award. Successful bidder's guarantee will be returned upon receipt and acceptance of contract, performance and payment bonds, and insurance documents.

30-06 EXECUTION OF CONTRACT, Page 30-2, revise as follows:

The successful bidder shall sign (execute) the necessary agreements for entering into the contract and return such signed contract to the owner, along with the fully executed surety bond or bonds specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section, and along with the specified insurance documents, within 10 calendar days from the date mailed or otherwise delivered to the successful bidder. If the contract is returned by mail, certified mail is recommended.

30-08 FAILURE TO EXECUTE CONTRACT, Page 30-2, revise as follows:

Failure of the successful bidder to execute the contract and furnish an acceptable surety bond or bonds and insurance documents within the 10 calendar day period specified in the subsection titled REQUIREMENTS OF CONTRACT BONDS of this section shall be just cause for cancellation of the award and forfeiture of the proposal guaranty, not as a penalty, but as liquidation of damages to the owner.

Section 40, Scope of Work

40-02 Alteration of Work and Quantities, Page 40-1 Add the following:

Change orders and supplemental agreements must be approved by Owner, FAA, and Contractor before work on the change order or supplemental agreement is started.

40-04 Extra Work, page 40-2 Add the following:

Change orders and supplemental agreements must be approved by Owner, FAA, and Contractor before work on the change order or supplemental agreement is started.

Section 50, Control of Work

50-15 FINAL ACCEPTANCE, Page 50-6. Add the following:
Acceptance of the work by the Owner or Engineer is not final until approved by the F.A.A.

Section 80, Prosecution and Progress

80-02 NOTICE TO PROCEED, Page 80-1, add the following:
Prior to construction, the accepted Contractor and subcontractors shall attend a pre-construction conference. The Contractor will present a progress schedule identifying the elements of work with sequence and completion dates for each major work item.

No construction will be started until the progress schedule is approved.

Section 90, Measurement and Payment

90-05 PAYMENT FOR EXTRA AND FORCE ACCOUNT WORK, Page 90-5, revise as follows:
...force account shall be measured and paid for based on expended labor, equipment, and materials plus a 15% allowance for overhead and profit.

90-06 PARTIAL PAYMENTS, Page 90-5, revise as follows:
The amount of partial payments to be deducted and retained by the owner shall be five (5) percent.

The following sections are added to the General Provisions:

INSURANCE AND LIABILITY

The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's operations under the Agreement whether such operations be by himself or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Claims under Workers' or Workmen's Compensation, disability benefit and other similar employee benefit acts;

Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;

Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;

Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;

Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

Minimum limits of insurance coverage shall be as follows:

- (a) The Contractor shall comply with Title 51 of the Revised Code of Washington, commonly referred to as the "Workman's Compensation Act," and all amendments thereto. (Also referred to as Chapter 74, Session Laws of 1911, State of Washington, and amendments thereto.)
- (b) Liability insurance for bodily injury for \$1,000,000 for each person, \$1,000,000 for each occurrence.
- (c) Property damage, \$1,000,000 for each occurrence.

Insurance under (b) and (c) above shall include Owner and Engineer as additional insureds.

Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the work. These certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least thirty days' prior written notice has been given to the Owner.

The Contractor's liability and property insurance with a completed Operations Endorsement shall be maintained after the completion of the project for the full warranty period. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from his operations under this Agreement.

In case of the breach of any provision of this article, the Owner, at his option, may take out and maintain at the expense of the Contractor such insurance as the Owner may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Contractor under this Agreement.

The Contractor shall not commence work under this Agreement until he has obtained all the insurance required hereunder and such insurance has been reviewed by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required for that portion of the work has been so obtained. Review of the insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

REQUIREMENTS OF WASHINGTON LAW FOR PUBLIC WORKS CONTRACTS

When the Contract Documents concern public works of the state or any county, municipality, or political subdivision created by its laws, the applicable sections of the Revised Code of Washington, as amended or superseded, including the latest additions and revisions, are incorporated by reference as part of these Contract Documents.

These sections define the requirements of Washington law for public Contracts and include but not limited to the following topics:

- 1. Concerning payments of laborers and materialmen, contributions of Workmen's Compensation Board, prevention of liens, payment of withholding taxes.
- 2. Concerning the maximum hours of labor, payment of medical care and attention to employees, liability to workers for violation of minimum wage rate requirements.
- 3. Concerning payment of claims by public officers, termination of Agreement because of a national emergency, conditions concerning the forfeiture of the Agreement.
- 4. Concerning payment of not less than prevailing wage rates, the Contractor shall pay not less than the prevailing rate of wages in conformance with RCW 39.12.040. The Contractor shall furnish, and shall require each and every subcontractor performing work on the Project to furnish, with their first Release and Certificate of Payment, copies of their Statement of Intent to Pay Prevailing Wages, which have been submitted to and approved by the Washington State Department of Labor and Industries ("WSDLI") setting forth (a) their registration certificate number, (b) the prevailing rate of wage for each classification of worker

- entitled to prevailing wages under RCW 39.12.020, and (c) the estimated number of workers in each classification. Certification of wage payments by the Contractor shall be submitted to the Owner in conformance with RCW 60.28.010.
5. The Contractor, and each contractor of any tier certified by the Industrial Statistician of the Department of Labor and Industries, as required by RCW 39.12.040 shall provide "Affidavit of Wages Paid", with the fees paid by the Contractor or contractor of any tier.

A schedule of minimum hourly wage rates is included within these Contract Documents. Any revisions to the Federal rates will be delivered to all bidders in the form of addendum to the Contract.

The Owner does not guarantee that labor can be procured for the minimum wages in the wage scale. The rates of wages listed are minimum only, below which the Contractor cannot pay. The Contractor shall ascertain for himself the wages above the minimum set forth that he may have to pay.

It is understood and agreed that all parties to this Agreement shall determine the contents of these applicable statutes and comply with their provisions throughout the performance of the Agreement.

SAFETY

The Engineer has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precaution or to means, methods, technique, sequences or procedures required for the Contractor to perform his work.

The Contractor will be solely and completely responsible for conditions of the work site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable State, County, and local laws, ordinances and codes.

The Contractor shall also comply with "U.S. Department of Labor Occupational Safety and Health Act," and "Construction Safety Act" administered by the U.S. Department of Labor, the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, and the "Manual on Uniform Traffic Control Devices," except where these are in conflict with state laws, in which case, the more stringent requirements shall be followed.

The Contractor shall maintain at his office or other well-known place at the work site, all articles necessary for giving first-aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of all persons (including employees) who may be injured on the work site.

The duty of the Engineer to conduct construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's safety measures in, on, or near the construction site.

If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the Engineer and the Owner. In addition, the Contractor must promptly report in writing to the Engineer all accidents whatsoever arising out of, or in connection with, the performance of the work whether on, or adjacent to, the site, giving full details and statements of witnesses.

If any claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Engineer giving full details of the claim.

CORRECTION OF DEFECTIVE WORK AFTER FINAL ACCEPTANCE:

All work shall be guaranteed for a period of one (1) year against defects in materials and workmanship. The Contractor hereby agrees to make, at his own expense, all repairs or replacements necessitated by defects in materials or workmanship supplied by him that become evident within one (1) year after the date of written notice from the Engineer recommending final acceptance of the entire project, or entire schedule, by the Owner. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work, and the Contractor and his surety shall be liable for the cost thereof.

NO WAIVER OF RIGHTS

Neither the inspection by the Owner, through the Engineer or any of his employees, nor any order by the Owner for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the Owner or Engineer, nor any extension of time, nor any possession taken by the Owner or its employees, shall operate as a waiver of any provision of these Contract Documents, or any power herein reserved to the Owner, or any right to damages herein provided, nor shall any waiver of any breach in this Agreement be held to be a waiver of any other or subsequent breach.

LITIGATION FEES AND EXPENSES

In the event suit or action be instituted to enforce any of the terms or conditions of this Agreement, the losing party shall pay to the prevailing party, in addition to the costs and disbursements allowed by statute, such sum as the court may adjudge reasonable as attorney's fees in such suit or action, in both trial and appellate courts.

END OF SECTION