

# REQUEST FOR QUALIFICATIONS

RFQ No. AE-1935B



## CONSTRUCTION ENGINEERING INSPECTION SERVICES FOR JFRD FIRE STATION #48 (Sheltered 100% Participation)

**RFQ DUE DATE: TUESDAY, AUGUST 20, 2024 AT 2:00 PM (ET)**

**Jerrie Gunder, Sr. Contract Specialist**

[Jerrie.Gunder@JAXPORT.com](mailto:Jerrie.Gunder@JAXPORT.com)

PROCUREMENT SERVICES

2831 Talleyrand Avenue, Jacksonville, Florida 32206

[JAXPORT.com/procurement/active-solicitations](https://JAXPORT.com/procurement/active-solicitations)

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- A. Acknowledgment of Addenda and SOQ Signature Page
- B. Conflict of Interest Certificate
- C. Public Entity Crimes Sworn Statement
- D. Certification Regarding Lobbying
- E. E-Verify
- F. Professional Services Agreement
- G. Required Limits of Insurance
- H. How to Submit Your Bid Response in E-Builder
- I. Article V, Jacksonville Small and Emerging Business Participation

#### **APPENDIX**

- A. USDOD Office of Economic Adjustment Grant Agreement HQ00052310057

# NO BID RESPONSE

RFQ NO. AE-1935B

PROJECT: CONSTRUCTION ENGINEERING INSPECTION SERVICES  
FOR JFRD FIRE STATION #48

BID OPENING DATE: TUESDAY, AUGUST 20, 2024 TIME: 2:00 PM (ET)

If your firm does not intend to submit Statement of Qualifications for this project, please provide us with the information requested below and e-mail to [Jerrie.Gunder@JAXPORT.com](mailto:Jerrie.Gunder@JAXPORT.com)

NAME OF FIRM: \_\_\_\_\_

We are unable to submit SOQ's for this project for the following reasons:

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

TELEPHONE: (    )

We (    ) are / (    ) are not interested in submitting SOQ's for similar JAXPORT projects in the future.

**REQUEST FOR QUALIFICATIONS  
CONSTRUCTION ENGINEERING INSPECTION SERVICES  
FOR NEW JFRD FIRE STATION #48  
JACKSONVILLE PORT AUTHORITY  
CONTRACT NO.: AE-1935B  
PUBLIC NOTICE**

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The JPA is requesting Statements of Qualifications (SOQ's) from Professional Engineering Consultant Firm's interested in providing CONSTRUCTION ENGINEERING INSPECTION SERVICES (CEI) for the Jacksonville Port Authority.

The JPA will utilize an external Professional Engineering Consultant Firm to provide constructability reviews, contract administration, inspection, and for materials sampling and testing for the JFRD Fire Station 48 at Blount Island Marine Terminal.

Submission of SOQ's does not guarantee your company will receive a contract from the JPA, nor does it imply that your company has any type of procurement/contractual relationship with the JPA now or in the future. Information provided by your company will be treated in a reasonable manner and will be subject to disclosure pursuant to the laws of the State of Florida.

Concurrent with this policy, the JPA conducts its procurement activities and formal bid processes in a competitive environment that fosters equal opportunity for qualified companies to provide services that meet our requirements.

A Pre-Submission Meeting will be held on **MONDAY, AUGUST 5, 2024 at 10:00 AM (ET)**, via "ZOOM Meeting" at <https://us02web.zoom.us/j/87678502855?pwd=zrrREVI7hCp1udoab9ljYFvyd4xFic.1>, Meeting ID: 876 7850 2855, Passcode: 066949. Attendance is highly recommended but not required for any firm that may be considering submitting Statement of Qualifications.

**[ALL STATEMENTS OF QUALIFICATIONS WILL BE RECEIVED BY JPA'S PROCUREMENT SERVICES IN PDF FORMAT ONLY THROUGH E-BUILDER UP TO 2:00 PM \(ET\), ON TUESDAY, AUGUST 20, 2024.](#)**

The Request for Qualifications document can be obtained from our website: <https://www.jaxport.com/procurement/active-solicitations/>. If you should have any questions regarding this application package, please submit them by e-mail to **Jerrie Gunder, Sr. Contract Specialist** at: [jerrie.gunder@jaxport.com](mailto:jerrie.gunder@jaxport.com) or through E-Builder.

<b>SECTION 1</b> <b>REQUEST FOR QUALIFICATIONS OVERVIEW, RESPONSE PROCEDURES AND SCHEDULE OF EVENTS</b>
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## **1.01      OVERVIEW**

The Jacksonville Port Authority (JAXPORT) is a full-service international trade seaport in the Southeastern United States and the global gateway to the State of Florida, the third most populous state in the nation.

JAXPORT owns, maintains and markets three cargo terminals, two intermodal rail terminals and one passenger cruise terminal along the St. Johns River.

JAXPORT and its maritime partners handle a variety of cargoes, including:

- containerized freight
- automobiles, recreational boats and construction equipment (roll-on roll-off or Ro/Ro)
- breakbulk commodities
- dry and liquid bulks and
- over-sized and specialty cargoes.

JAXPORT's three marine terminals handled a total of 9.9 million tons of cargo in 2020, including more than 1.27 million TEUs (containers) – making Jacksonville the largest container handling port in Florida – and 550,000+ vehicles, ensuring JAXPORT's ranking as one of the top vehicle ports in the U.S.

JAXPORT features 19 container cranes, warehousing, Foreign Trade Zone status and intermodal connections enhanced through its two Intermodal Container Transfer Facilities (ICTF). To help speed goods to market, shippers can take advantage of Jacksonville's location at the crossroads of three major railroads (CSX, Norfolk Southern and Florida East Coast Railway) and three interstate highways (I-95, I-10, and I-75).

Cargo activity through the Port of Jacksonville generates 138,500 jobs in Florida and supports nearly \$31.1 billion in annual economic output for the region and state.

### **JAXPORT's Vision**

JAXPORT will be a global leader in diversified trade and supply chain solutions, focused on efficiency and fiscal integrity.

### **JAXPORT's Mission**

Creating jobs and opportunity by offering the most competitive environment for the movement of cargo and people.

## 1.02 PURPOSE

The JPA is requesting Statements of Qualifications (SOQ's) from professional Consultant Firm's interested in providing CONSTRUCTION ENGINEERING INSPECTION SERVICES (CEI) for the Jacksonville Port Authority. The JPA is specifically seeking a Consultant Firm capable and with experience in providing CEI services for the new JRFD Fire Station 48 at BIMT.

The professional engineering consultant services will be procured in accordance with the Consultant's Competitive Negotiation Act (CCNA), adopted by the Florida Legislature in 1973, under Section 287.055, Florida, Statutes, as amended, which requires state government agencies, municipalities or political subdivisions, school boards and school districts, to select a consulting firm based on qualifications rather than on a lowest bid basis. For purposes of this RFQ the terms "Consultant Firm", "Consultant" and "Proposer" are used interchangeably.

The Consultant Firm shall not assign or subcontract any professional work of the contract to any other entity without the specific written permission and acceptance of the JPA. All services shall be rendered in individually authorized projects.

## 1.03 QUALIFICATION AND SUBMISSION PROCESS

The procurement of the Consultant Firm Services for CONSTRUCTION ENGINEERING INSPECTION SERVICES for the JPA will follow a phased selection process consisting of submission of SOQ's in response to this advertisement. Submittals will be reviewed and evaluated based on minimum requirements and then qualifications to perform the services required. At the JPA's discretion, at least three Proposers may be invited to make oral presentations/interview prior to final selection. Such oral presentations/interviews will be scheduled at the JPA's convenience. The JPA will not be liable for any costs incurred in connection with such oral presentations/interviews. The JPA is not required to contact a Proposer to obtain additional information to evaluate the SOQ's; however, JPA may elect to do so. The JPA will make an award based on the Proposer's ability to meet JPA's needs and requirements, based on the Evaluation Criteria as shown on Section 5.01, and 5.02 of this RFQ.

The SOQ's developed in response to this advertisement shall focus on demonstrating **capability and professional expertise** to perform the noted work. Any subsequent oral presentations/interviews, to be completed only by the selected Proposers, will provide the Consultant Firm with the opportunity to specifically present their approach to the Project in the areas noted in Section 3 – Scope of Work of this RFQ.

The Consultant Firm selection process will be in accordance with Section 287.055, Florida Statutes, as amended, the Consultants Competitive Negotiation Act (CCNA) based on information provided by the Proposer's SOQ's and, if shortlisted, subsequent, oral presentations/interviews.

It is anticipated that respondents to the RFQ may consist of a Consultant Firm comprised of a Consultant leading the Team with one or more sub consultants to supplement the Consultant's resources within specific areas of expertise. The Consultant Firm serving in the role as a Consultant on a Consultant Team will be limited to participating only on that Consultant Team for which they are the Consultant. Sub consultants will be allowed to participate on more than one Consultant Firm Team.

#### **1.04 REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS**

All SOQ's shall be prepared simply and economically avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate and reliable presentation. All information requested must be submitted.

All SOQ's shall be a maximum of twenty-five (25) 8-1/2-inch x 11-inch single sided pages. The required documentation in Section 4 is not a part of the twenty-five (25) pages maximum. Cover Letter, Table of Contents, Front/Back Covers and Tabs are not counted. Text shall be a minimum font size of twelve (12) on all text and tables.

Statements of Qualifications and all required supplemental material listed in **Section 4.01**, must be submitted in **PDF Format Only** through E-Builder. SOQ's and supplemental documents submitted through Email or Fax will not be accepted or considered. **Until further notice, JAXPORT is not accepting any SOQ packages submitted by mail or hand-delivery. Please visit the JAXPORT's website at [www.jaxport.com](http://www.jaxport.com) for more information and updates.**

The PDF file name should read **"AE-1935B"**.

**SOQ'S MUST BE SUBMITTED THROUGH E-BUILDER,  
PRIOR TO 2:00 PM (ET) ON TUESDAY, AUGUST 20, 2024**

"How to Submit Your Bid Response in E-Builder" is provided as **Attachment "H."** For additional instructions on how to navigate in E-Builder, click the below link to access the **"Bidders Portal Instructional Training Video"**:

<https://resources.e-builder.net/bidding/e-builder-bidders-portal-instructional-training-video>

**Proposals must be submitted prior to 2:00 PM E (ET), TUESDAY, AUGUST 20, 2024. The submit button in E-Builder will deactivate at exactly 2:00 PM and you will not be permitted to submit your proposal regardless of where you are in the process. Please plan accordingly.**

Any Proposals received after the above stated time and date will not be considered. It is the sole responsibility of the Proposer to have its Proposal submitted to JAXPORT as specified herein on or before the above date and time. For the purpose of the RFP, a proposal is considered delivered when confirmation of delivery is provided by E-Builder. Proposer's must ensure that its electronic submission in E-Builder can be assessed and viewed at the time of the proposal



opening. JAXPORT will consider any file that cannot be immediately accessed and viewed at the time of the proposal opening (including, but not limited to, encrypted files, password protected files, or incompatible files) to be blank or incomplete, as context required, and therefore, unacceptable. Proposer's will not be permitted to unencrypt files, remove password protections, or resubmit documents after proposal opening to make a file viewable if those documents are required with proposal. All expenses for submitting Proposals to JAXPORT are to be borne by the Proposer and will not be borne, charged to or reimbursed by JAXPORT in any manner or under any circumstance.

Each individual SOQ shall contain the following information:

1. The Proposer Identification/Authorized Signatories, the legal name, address, and telephone number of the Proposer (corporation, firm, partnership, individual, or sole proprietorship). SOQ's shall be signed above the typed or printed name and title of the signer. SOQ's must be signed by an individual with the authority to bind the Proposer. The signature of Authorized Representative on the SOQ must be made by an officer of the Proposer if the Proposer is a corporation, by a partner if the firm is a partnership, or by the proprietor, if the firm is a sole proprietorship.
2. Minimum Requirements - In order to be considered responsive to this RFQ, Proposers should provide the following documentation with their SOQ submittal. This documentation should be included in a separate section designated **"Required Forms and Documentation"** and is not included in the SOQ page limitation. A Proposer's SOQ that does not include this documentation may be deemed non-responsive. Additionally, if the Proposer's submitted documentation does not, in the sole opinion of JPA, meet the intent of JPA's minimum requirements, the Proposer's SOQ maybe deemed non-responsive.

### **Required Documentation**

- a) Current license or registration as regulated under Florida Statutes to perform the professional services required of this RFQ. Provide documentation showing that the proposing entity is authorized to do business in Florida and provide a copy of the license issued by the Department of Professional Regulation of the Lead Engineer who will manage the JPA account.
- b) A certificate of good standing from the Florida Department of State, if the Proposer is a corporation, limited liability company, limited partnership, or other type of entity requiring registration with the Florida Department of State.
- c) An audited financial statement prepared by an independent Certified Public Accountant in accordance with auditing standards issued by AICPA for the Proposer's most recently completed fiscal year (submit as a separate file named "Financial Statement").
- d) Proof of minimum indemnification and insurance requirements in the form of a current certificate from a company or companies authorized to do business in Florida. The Proposer/Consultant shall require its subcontractors and subconsultants to maintain the

minimum indemnification and insurance requirements listed below. The submitted documentation shall demonstrate compliance with the following minimum indemnification and insurance requirements (inclusive of any amounts provided by an umbrella or excess policy) in the amounts below:

#### Professional Liability

The Proposer's / Consultant's insurance shall be on a form acceptable to JPA, and shall cover the Proposer / Consultant for those sources of liability arising out of the rendering or failure to render professional services in the performance of this Agreement, including any hold harmless and/or indemnification agreement.

The minimum limits to be maintained by the Proposer / Consultant (inclusive of any amounts provided by an umbrella or excess policy) shall be \$5,000,000 per occurrence, and in the aggregate. The Proposer / Consultant shall provide and maintain such professional liability insurance from the inception of its services, and until at least three (3) years after completion of all services required under this Agreement. Prior to commencement of services, the Proposer / Consultant shall provide to JPA a certificate or certificates of insurance, signed by an authorized representative of the insurer(s) evidencing the insurance coverage specified in the foregoing Articles and Sections. The required certificates shall not only name the types of policies provided, but shall also refer specifically to this Agreement and Article, and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is provided as required by such paragraphs of this Agreement.

The required certificates shall contain a provision that the JPA shall be given not less than 30 days' written notice prior to cancellation or restriction of coverage. The Proposer / Consultant shall also provide to the JPA a certified copy of the Professional Liability Insurance coverage. The required policies shall contain a provision that the JPA shall be given not less than 30 days' written notice prior to cancellation or restriction of coverage. If the initial insurance policies required by this Agreement expire prior to the termination of this Agreement, renewal certificates of insurance or policies shall be furnished 30 days prior to the date of their expiration. The JPA reserves the right to require additional insurance coverage based on individual project values or specific project requirements.

**Failure to procure insurance:** The successful Consultant Firm's failure to procure or maintain required insurance program shall constitute a material breach of Agreement under which the JPA may immediately terminate the proposed Agreement.

- e) Completion of Conflict of Interest Form – See Attachment “B”
- f) Completion of Sworn Statement on Public Entity Crimes – See Attachment “C”
- g) Completion of Certification Regarding Lobbying – See Attachment “D”.
- h) Completion of E-Verify – See Attachment E

## 1.05 SCHEDULE OF EVENTS

It is anticipated that the Consultant Firm will be selected on or as near to September 2024, under the following schedule of events:

- |   |                          |
|---|--------------------------|
| 1. Issue Request for Qualifications               | July 25 & August 1, 2024 |
| 2. Pre-Submission Meeting                         | August 5, 2024           |
| 3. Questions Cut-Off Deadline                     | August 7, 2024           |
| 4. Statements of Qualifications Submittal Date    | August 20, 2024          |
| 5. Evaluations and Shortlist of Consultants/Firms | August 21 & 28, 2024     |
| 6. Oral Presentations / Interview Date            | August 29-30, 2024       |
| 7. JPA Awards Approval Final Rankings/Negotiation | September 4, 2024        |
| 8. Negotiation for Fees                           | September 9-11, 2024     |
| 9. JPA Awards Approval of Firm                    | September 12, 2024       |
| 10. JPA Board Approval of Firm                    | September 23, 2024       |
| 11. Issue and Execute Agreement with Firm         | September 2024           |

*Observed Holiday, Monday, September 2, 2024 (Labor Day)*

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<b>SECTION 2</b> <b>TERMS AND CONDITIONS</b>
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**2.01 PRE-SUBMISSION MEETING**

A Pre-Submission Meeting is scheduled for **MONDAY, AUGUST 5, 2024 at 10:00 AM (ET)** via “ZOOM”:

*Please join my meeting from your computer, tablet or smartphone.*

<https://us02web.zoom.us/j/87678502855?pwd=zrrREVI7hCp1udoab9ljYFvyd4xFic.1>

**Meeting ID: 876 7850 2855**

**Passcode: 066949**

Attendance is highly recommended but not required for any Consultant Firm that may be considering submitting Statements of Qualifications for this project.

**2.02 QUESTIONS – CHANGES WHILE PROPOSING**

Any questions regarding this RFQ should be directed only to Jerrie Gunder, Sr. Contract Specialist and submitted either by e-mail to [jerrie.gunder@jaxport.com](mailto:jerrie.gunder@jaxport.com) or through E-Builder. Answers to questions will be released by e-mail in an Addenda directed to all known prospective proposers.

**The deadline for questions will be WEDNESDAY, AUGUST 7, 2024 BY 12:00 PM (ET)**

No interpretation of the meaning of the specifications or other Contract Documents, nor corrections of any apparent ambiguity, inconsistency or error therein, will be made to any Proposer orally. Any request for such interpretations or corrections must be submitted either by e-mail to [jerrie.gunder@jaxport.com](mailto:jerrie.gunder@jaxport.com) or through E-Builder.

Any such request which is not received prior to the above deadline date for questions will not be considered. All such interpretations and supplemental instructions will be in the form of written Addenda to the Contract Documents, which if issued, will be e-mailed to all known prospective Proposers.

Only the interpretation or correction so given by the JPA in writing will be binding, and prospective Proposers are advised that only the JPA will give information concerning or will explain or interpret the RFQ Documents.

### **2.03 ADDENDA**

It is mandatory that the Proposers acknowledge the inclusion of all addenda with the response to this RFQ. Acknowledgement shall be made by initials and date (**See Attachment "A"**). **Failure to acknowledge all addenda may result in rejection of the SOQ's.**

Please visit <https://www.jaxport.com/procurement/active-solicitations/> prior to the submittal date to determine the number of addenda that have been released on this RFQ.

### **2.04 RFQ POSTPONEMENT/CANCELLATION/REJECTION**

The JPA may, at its sole and absolute discretion, reject any and all, or parts of any and all, responses; re-advertise this RFQ; postpone or cancel, at any time, this RFQ process or waive any irregularities in this RFQ or in any responses received as a result of this RFQ.

### **2.05 COST INCURRED BY CONSULTANTS**

All expenses involved with the preparation and submission of responses to the RFQ, or any work performed in connection there with, shall be the sole responsibility of the consultant(s) and not be reimbursed by the JPA.

### **2.06 EXCEPTIONS TO RFQ**

Consultant Firms must clearly indicate in their SOQ any exceptions they wish to take to any of the terms in this RFQ, and outline what alternative is being offered. The JPA, after completing evaluations, may accept or reject the exceptions. In cases in which exceptions are rejected, the JPA may require the Consultant Firm to furnish the services or goods originally described, or negotiate an alternative acceptable to the JPA or JPA at its discretion may deem the submittal as non-responsive.

### **2.07 PUBLIC MEETING REQUIREMENTS**

The JPA complies with Section 286.011 of the Florida Statutes, as amended. Therefore, certain types of staff meetings and meetings of the JPA Awards Committee, and Board of Directors are required to be held in public, with sufficient notice made of the time and date of the meeting(s). All notices of public meetings are posted in the lobby of the JPA, 2831 Talleyrand Avenue, Jacksonville, Florida. For information concerning when the project(s) will be submitted for award, contact Procurement Services at telephone (904) 357-3017, Monday through Friday.

### **2.08 NEGOTIATIONS**

The JPA reserves the right to enter into negotiations with the most qualified Consultant Firm, and if the JPA and the most qualified Consultant Firm cannot negotiate a mutually acceptable contract, the JPA may terminate the negotiations and begin negotiations with the second most qualified Consultant Firm. This process may continue until a contract has been executed or all responses have been rejected. No Consultant Firm shall have any rights in the subject project or property or against the JPA arising from such negotiations.

During contract negotiations, the successful proposer will be required to provide a schedule of proposed rates and hours required to complete the Scope of Services included in this solicitation. Such rates and costs will be used in the negotiation of fees and shall remain in effect throughout the length of the contract, except such rates may be adjusted when an amendment to the original agreement is being negotiated. Unless specifically identified otherwise on the form, rates for sub consultants also shall not exceed those shown on the form.

Proposed overhead rates shall conform to Federal Acquisition Regulations as established by a governmental audit or certified to by a Certified Public Accountant. Profit rate shall be applied only to direct labor plus overhead. No markup or profit shall be paid on non-labor related job costs or reimbursables. The proposed rates will be fully burdened. No additional mark-up will be permitted.

## **2.09 PROTEST PROCEDURES**

Respondents shall file any protest regarding this RFP in writing, in accordance with JPA's Protest Procedures promulgated on SOP-1215 Procurement Code for the Jacksonville Port Authority, available at <https://www.jaxport.com/procurement/procurement-team/>

## **2.10 E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION**

The successful Proposer agrees to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Proposer during the term of this Contract. Successful Proposer must include in all subcontracts the requirement that subcontractors performing work or providing goods and services utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. The successful Proposer further agrees to maintain records of its participation and compliance and its subcontractor's participation and compliance with the provisions of the E-Verify program, and to make such records available to JAXPORT upon request. Failure to comply with this requirement will be considered a material breach of the Contract. It is the successful Proposer's responsibility to ensure that they meet all current and future statutory regulations throughout the life of this contract.

## **2.11 RULES, REGULATIONS AND LICENSING REQUIREMENTS**

Consultant Firms are expected to be familiar with and comply with all Federal, State and local laws, ordinances, codes, and regulations that may in any way affect the services offered, including the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act, Title VIII of the Civil Rights Act of 1968, the EEOC Uniform Guidelines, and all EEO regulations and guidelines and Applicable Federal Laws and Regulations, including without limitation, the Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the provisions of the Equal Opportunity for Individuals with Disabilities Act in 42 U.S.C. Section 12112, the Listing of Employment Openings for Veterans Clause in Title 41, Part 50-260.2 of the Code of Federal Regulations and the Disabled Veterans and Veterans of the Vietnam era Clause in Title 41, Part

60-250.5 of the Code of Federal Regulations, are incorporated herein by reference if and to the extent applicable. If Consultant is exempt from any of the above cited terms, written evidence of such exempt status must be provided to JPA. Ignorance on the part of the Consultant Firm will in no way relieve it from responsibility for compliance.

#### **2.12 CONFLICT OF INTEREST**

All Consultant Firms must disclose with their response the name(s) of any officer, director, agent, or immediate family member (spouse, parent, sibling, and child) who is also an employee of the JPA. Further, all Consultant Firms must disclose the name of any JPA employee who owns, either directly or indirectly, an interest of ten (10%).

#### **2.13 COMPLIANCE WITH RESTRICTIONS ON LOBBYING**

All Consultants Firms are expected to certify and comply with 49 C.F.R. Part 20, and shall be subject to any and all sanctions in addition to disqualification of their Proposals, in the event of such non-compliance.

#### **2.14 CONSULTANT'S RESPONSIBILITY**

Before submitting responses, each Consultant Firm shall make all investigations and examinations necessary to ascertain all conditions and requirements affecting the full performance of the contract. Ignorance of such conditions and requirements resulting from failure to make such investigations and examinations will not relieve the successful Consultant Firm from any obligation to comply with every detail and with all provisions and requirements of the contract documents, or will be accepted as a basis for any claims whatsoever for any monetary consideration on the part of the Consultant Firm.

#### **2.15 PUBLIC ENTITY CRIME (PEC)**

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

#### **2.16 INDEMNIFICATION**

The successful Consultant and its subcontractors and subconsultants (individually or collectively referred to as the "Indemnifying Parties"), shall hold harmless, indemnify, and defend JPA and JPA's officers, board members, employees, representatives and agents (individually or collectively referred to as the "Indemnified Parties") from and against:

- (a) General Tort Liability, including without limitation any and all claims, actions, losses, damages, injuries, liabilities, costs and expenses of whatsoever kind or nature



(including, but not by way of limitation, attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons (including death) or damage to property, arising out of or incidental to the Indemnifying Parties' performance of the Contract or work performed hereunder; and

(b) Environmental Liability, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees), arising from or in connection with (a) the Indemnifying Parties' actions or activities under the Contract that result in a violation of any environmental law, ordinance, rule or regulation or that leads to an environmental claim or citation or to damages due to the Indemnifying Parties' activities, (b) any environmental, health and safety liabilities arising out of or relating to the operation or other activities performed in connection with the Contract by the Indemnifying Parties at any time on or prior to the effective date of the Contract, or (c) any bodily injury (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any person in any way arising from or allegedly arising from any hazardous activity conducted by the Indemnifying Parties. JPA will be entitled to control any remedial action and any legal proceeding relating to an environmental claim; and

(c) Intellectual Property Liability, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees), arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right and will pay all costs (including, but not limited to attorney's fees and court costs), damages, charges and expenses charged to the Indemnified Parties by reason thereof. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to JPA, so that the Service or product is non-infringing; and



(d) Violation of Laws Liability, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees) arising from or based upon the violation of any federal, state, or municipal laws, statutes, resolutions, rules or regulations, by the Indemnifying Parties or those under their control; and

(e) Liability from Breach of Representations, Warranties and Obligations, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees) which may be incurred by, charged to or recovered from any of the foregoing, arising directly or indirectly out of (a) any breach of any representation or warranty made by the Indemnifying Parties in connection with the Contract or in any certificate, document, writing or other instrument delivered by the Indemnifying Party, or (b) any breach of any covenant or obligation of the Indemnifying Parties set forth in the Agreement or any other certificate, document, writing or other instrument delivered by the Indemnifying Parties pursuant to the Agreement.

The indemnifications in this Section 2.16 are separate and apart from, and are in no way limited by, any insurance provided pursuant to the Agreement or otherwise. This Section 2.16 shall survive the expiration or termination of the Agreement. To the extent an Indemnified Party exercises its rights under this Section 2.16, the Indemnified Party will (1) provide reasonable notice to JPA of the applicable claim or liability, and (2) allow JPA to participate in the litigation of such claim or liability (at JPA's expense) to protect its interests. Each party will cooperate in the investigation, defense and settlement of claims and liabilities that are subject to indemnification hereunder, and each party will obtain the prior written approval of the other Party before entering into any settlement of such claim or liability, which consent shall not be unreasonably withheld, delayed or conditioned.

## **2.17 WAIVER OF IRREGULARITIES**

The JPA may waive minor informalities or irregularities in SOQ's received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Consultant Firm Teams. Minor irregularities are defined as those that will not have an adverse effect on the JPA's interest and will not affect the review of the SOQ's by giving a Consultant Firm Team an advantage or benefit not enjoyed by other Proposers.

## **2.18 FUNDING SOURCES**

**The JPA has made the decision to set-aside this contract for participation of Small and Emerging Business (SEB's) only.** Small and Emerging Business include the following certifications: JSEB's, MBE's, WBE's, DBE's, and SBA's. The JPA has determined that the MANDATORY participation goal for this contact is 100% Small and Emerging Business, based upon a thorough review and availability of qualified consultants willing to perform the services

required on the Request for Qualifications. Please refer to Article V, Attachment "I" for further details.

The project is funded in part by the federal U. S. Department of Defense Office of Economic Adjustment and will be subject to provisions of the included in Appendix A – U.S. Department of Defense Office of Economic Adjustment Grant Agreement as it applies to Small Emerging Business (SEB) Enterprise Program as well as 49 CFR Part 26, as amended, as it applies to Disadvantaged Business Enterprises (DBE's) Program and 44 CFR Part 13 as it applies to Small Business Administration (SBA), Minority (MBE) and Women-owned (WBE) Business Enterprises when applicable. Reference Attachment "I" for program requirements.

JAXPORT, as the Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations hereby notifies all proposers that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration of an award.

#### **2.19 CONTINGENT FEES PROHIBITED**

(a) "The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, or registered land surveyor and mapper, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in s. [775.082](#) or s. [775.083](#), Florida Statutes, as amended.

(c) Any architect, professional engineer, or registered surveyor and mapper, or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. [775.082](#) or s. [775.083](#), Florida Statutes, as amended.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. [775.082](#) or s. [775.083](#), Florida Statutes, as amended.

## **2.20 TRUTH IN NEGOTIATION**

The Consultant Firm understands and agrees that execution of the RFQ shall be deemed to be a simultaneous execution of a Truth-In-Negotiation Certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 287.055, Florida Statutes, as amended. Pursuant to such certificate, the Firm hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete and current at the time of contracting. Further the Firm agrees that the compensation hereunder shall be adjusted to exclude any significant sums where the JPA determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

## **2.21 COLLUSION**

The Proposer, by affixing his signature to this proposal agrees to the following: "Proposer certifies that this proposal is made without any previous understanding, agreement or connection with any person, firm, or corporation making a bid for the same service; and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action."

## **2.22 AUDIT PROVISIONS**

A person providing capital improvements, contractual services, supplies or professional services with a value in excess of eight thousand dollars, computed on a cumulative basis for all the transactions during a fiscal year of the JPA, and purchased by the JPA pursuant to a method of purchase other than by formal competitive bid, unless otherwise provided herein, shall agree and be deemed to have agreed by virtue of doing business under contract with the JPA to allow access and examination at all reasonable times by the JPA's Auditor or any duly authorized

representative of the JPA to business records directly pertinent to the transaction until the expiration of three years after final payment pursuant to the transaction.

### **2.23 TERMINATION FOR DEFAULT**

If through any cause within the reasonable control of the successful Consultant Firm, it shall fail to fulfill in a timely manner, or otherwise violate any of the covenants, agreements, or stipulations material to the Agreement, the JPA shall thereupon have the right to terminate the services then remaining to be performed by giving written notice to the successful Consultant Firm of such termination which shall become effective upon receipt by the successful Consultant Firm of the written termination notice.

In that event, the JPA shall compensate the successful Consultant Firm in accordance with the Agreement for all services performed by the Consultant Firm prior to termination, net of any costs incurred by the JPA as a consequence of the default. Notwithstanding the above, the successful Consultant Firm shall not be relieved of liability to the JPA for damages sustained by the JPA by virtue of any breach of the Agreement by the Consultant Firm, and the JPA may reasonably withhold payments to the successful Consultant Firm for the purposes of set off until such time as the exact amount of damages due to the JPA from the successful Consultant Firm is determined.

### **2.24 TERMINATION FOR CONVENIENCE**

The JPA may, for its convenience, terminate the services then remaining to be performed at any time without cause by giving written notice to successful Consultant Firm of such termination, which shall become effective thirty (30) days following receipt by Consultant Firm of such notice. In that event, all finished or unfinished documents and other materials shall be properly delivered to the JPA. If the Agreement is terminated by the JPA as provided in this section, the JPA shall compensate the successful Consultant Firm in accordance with the Agreement for all services actually performed by the successful Consultant Firm and reasonable direct costs of successful Consultant Firm for assembling and delivering to the JPA all documents. No compensation shall be due to the successful Consultant Firm for any profits that the successful Consultant Firm expected to earn on the balance of the Agreement. Such payments shall be the total extent of the JPA's liability to the successful Consultant Firm upon a termination as provided for in this section.

### **2.25 BREACHES AND DISPUTE RESOLUTION**

Disputes – Disputes arising in the performance of the Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the JPA (the “Authorized Representative”). This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Consultant Firm mails or otherwise furnishes a written appeal to the authorized representative of the JPA. In connection with any such appeal, the Consultant Firm shall be afforded an opportunity to be heard and to offer evidence in support

of its position. The decision of the Authorized Representative shall be binding upon the Consultant Firm and the Consultant Firm shall abide by the decision.

Performance During Dispute – Unless otherwise directed by the JPA, Consultant Firm shall continue performance under this Consultant Firm while matters in dispute are being resolved.

Claims for Damages – Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies – Unless the contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the JPA and the Consultant Firm arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in court of competent jurisdiction within the JPA in which the JPA is located.

Rights and Remedies – 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. No action or failure to act by the JPA, (Architect) or Consultant Firm shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **2.26 EX-PARTE COMMUNICATIONS PROHIBITED**

The JPA believes that any ex-parte communication concerning the solicitation, evaluation, and selection process denies all firms submitting proposals fair, open, and impartial consideration. Adherence to procedures which ensure fairness is essential to the maintenance of public confidence in the value and soundness of the important process of public procurement of professional services. Therefore, during the solicitation, evaluation, and selection process, any ex-parte communication between a firm, its employees, agents, or representatives; and the JPA, its members, employees, agents, legal counsel, or representatives; other than the JPA's designated representative identified herein, is strictly prohibited. Failure to observe this requirement shall result in rejection of a firm's proposal. For purposes of this section, the term "ex-parte communication" shall mean any oral or written communication relative to this solicitation, evaluation, and selection process, which occurs outside of an advertised public meeting, pursuant to Section 285.011, Florida Statutes, as amended.

This requirement shall not prohibit:

1. Meetings called or requested by the JPA and attended by Consultant Firms for the purpose of discussing this solicitation, evaluation, and selection process, including, but not limited to, substantive aspects of this RFQ;
2. The addressing of any appointed governing authority of the JPA at public meetings advertised and conducted pursuant to, and in compliance with, Section 285.011, Florida Statutes, as amended;
3. The filing and prosecution of a written protest to any proposed award to be made pursuant to this solicitation, evaluation, and selection process, which filing and prosecution shall give notice to all firms. Protest proceedings shall be limited to open public meetings with no ex-parte communication outside those meetings;
4. Contacts with elected or appointed officials of the JPA.

## **2.27      INSURANCE**

Without limiting its liability under the Agreement, Contractor and its subcontractors and subconsultants shall procure and maintain at their sole expense, during the term of the Agreements, insurance of the types and in the minimum amounts stated in the Required Limits of Insurance "Attachment G" of this RFQ.

## **2.28      COMPLIANCE WITH LAWS**

Consultant shall comply with applicable laws, regulations, ordinances and rules of governmental agencies in the performance of its obligations hereunder, at Consultant's sole cost and expense. Consultant shall secure all required licenses and permits necessary to the performance of the Services at its sole cost and expense.

## **2.29      GOVERNING LAW/VENUE**

The rights, obligations and remedies of the parties as specified under the Contract shall be interpreted and governed in all aspects by the laws of the State of Florida. Venue for litigation of the Contract shall be exclusively in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

## **2.30      SEVERABILITY**

If any provision of the Agreement shall be declared by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, or in conflict with any applicable law, the validity of the remaining provisions shall continue in full force and effect and shall not be impaired.

## **2.31      ADVERTISING**

Consultant will not use the name of JPA or the JPA or quote the opinion of any employee of JPA or the JPA or refer to JPA or the JPA directly or indirectly in any promotional literature or



correspondence, news release, advertisement or release to any professional or trade publications without receiving specific written approval for such use or release from JPA. However, this paragraph will in no way limit Consultant's ability to satisfy any governmental required disclosure of its relationship with JPA.

### **2.32      ASSIGNMENTS**

The Agreement shall be binding upon the parties hereto and their respective successor and assigns, the Consultant shall not assign the Agreement without JPA's express written consent. Any such assignment by Consultant's must contain a provision allowing JPA to assert against any assignee, any and all defenses, setoffs or counterclaims which JPA would be entitled to assert against Consultant.

### **2.33      MODIFICATIONS; WAIVERS**

The Agreement may be modified or amended only by a writing signed by each of the parties hereto. No delay or omission of either party to exercise any right power or remedy hereunder shall be construed to waive any default or breach, or to constitute acquiescence therein. No waiver of any default or breach hereunder shall extend to or affect any subsequent default or breach or other existing default or breach.

### **2.34      FORCE MAJEURE**

Performance of this RFQ by both JPA and the Consultant will be pursued with due diligence in all requirements hereof; however, neither JPA nor the Consultant will be considered in default in the performance of its obligations under this RFQ to the extent that such performance is prevented or delayed by causes not within the control of either Party and not foreseeable or, if foreseeable cannot be avoided by the exercise of reasonable care, including, but not limited to, acts of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; riot; insurrection; inability to secure approval, validation or sale of bonds; inability to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; pandemics; endemics; fires; floods; strikes; lockouts; or collective bargaining. Upon any delay resulting from such cause the time for performance of each Party hereunder (including the payment of monies if such event prevents payment) will be extended for a period necessary to overcome the effect of such delays.

In case of any delay or nonperformance caused by the above causes, the Party effected will promptly notify the other in writing of the nature, cause, date of commencement and the anticipated extent of such delay, and will indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be affected by that.

**2.35      ENTIRE AGREEMENT**

The Agreement, the RFQ, and the Response shall constitute the entire Agreement between JPA and the Consultant relating to the Services.

**2.36      PUBLIC RECORDS AND GOVERNMENT IN THE SUNSHINE LAWS**

Consultant acknowledges that the JPA is subject to the Florida Public Records Law and the Government in the Sunshine Law, and that in compliance therewith, in the sole opinion of the JPA, the JPA may disseminate or make available to any person, without the consent of Consultant, information regarding or documents received in connection with this Agreement; including without limitation, information in the Response, and requirements, specifications, drawing, sketches, schematics, models, samples, tools, computer or other apparatus programs, technical information or data, whether or written or oral, furnished by Consultant to the JPA under this Agreement. Any specific information that Consultant claims to be a trade secret or otherwise exempt from the Florida Public Records Law must be clearly identified as such by Consultant on all copies furnished to JPA. JPA agrees to notify Consultant of any third-party request to view such information, but it is Consultant's obligation to obtain a court order enjoining disclosure. If Consultant fails to obtain a court order enjoining disclosure within five (5) business days of Consultant's receiving notice of the request, JPA may release the requested information. Such release shall be deemed for purposes of the Agreement to be made with Consultant's consent and will not be deemed to be a violation of law, including but not limited to laws concerning trade secrets, copy right or other intellectual property.

**2.37      WAIVER OF JURY TRIAL, CONSENT TO JURISDICTION**

Consultant and JPA hereby knowingly, voluntarily and intentionally waive any right either may have to a trial by jury in respect of any litigation based on this Agreement or arising out of, under or in connection with the Services, or any course of conduct, course of dealing, statement or actions of any party hereto. Consultant and JPA further agrees that any suit, action or other legal proceeding arising out of or relating to this Agreement may be brought, at the option of JPA, in a court of record of the State of Florida in Duval County, or in the United States District Court for the Middle District of Florida, or in any other court of competent jurisdiction, and each party hereby consents to the jurisdiction of each may have to the laying of venue of any such suite, action or proceeding and any of such courts.

**2.38      CONSULTANT REPRESENTATIONS**

In submitting a Response, Consultant understands, represents, and acknowledges the following (if Consultant cannot so certify to any of following, Consultant shall submit with its Response a



written explanation of why it cannot do so), which shall be on-going and continuing representation during the term of the Agreement:

- Consultant currently has no delinquent obligations to the JPA.
- The Response is submitted in good faith and without any prior or future consultation or agreement with any other respondent or potential respondent;
- To the best of the knowledge of the person signing the Response, neither the Consultant, its affiliates, subsidiaries, owners, partners, principals or officers:
  - is currently under investigation by any governmental authority for conspiracy or collusion with respect to bidding on any public contract;
  - is currently under suspension or debarment by any governmental authority in the United States;
  - has within the preceding three years been convicted of or had a civil judgment rendered against it, or is presently indicted for or otherwise criminally or civilly charged, in connection with (i) obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; (ii) violation of federal or state antitrust statutes; or (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - has within the preceding three-year period had one or more federal, state, or local government contracts terminated for cause or default.
- Consultant is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Pursuant to section 287.135, Florida Statutes, as amended, the submission of a false certification may subject the company to civil penalties, attorney's fees, and/or costs. [This certification applies to contracts of \$1,000,000 or more. A list of the companies can be found as a link to "PFIA Quarterly Reports" at [www.sbafla.com/fsb/](http://www.sbafla.com/fsb/) ]
- Consultant has read and understands the RFQ terms and conditions, and the Response is submitted in conformance with those terms and conditions.
- All representations made by Consultant to JPA in connection with the RFQ have been made after a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the Response.
- Consultant shall indemnify, defend, and hold harmless JPA and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the Response.
- All information provided by, and representations made by, Consultant are material and important and may be relied upon by JPA in awarding the Agreement.
- Consultant is a \_\_\_\_\_ entity under the laws of the State of \_\_\_\_\_ duly organized and existing under the laws thereof, and

the Consultant has taken all entity action necessary with respect to the execution, delivery and performance of its obligations under this Agreement. The officer of the Consultant who has executed and delivered this Agreement is duly authorized with respect thereto.

- Consultant is trained, knowledgeable and skilled regarding the Services to be provided hereunder, and is fully competent and capable of providing all of the Services. Where applicable, the terms “training” and “skills” used in this section include professional education and working experience. Each of the officers, employees and agents of the Consultant who will perform work under this Agreement on behalf of the Consultant meet the terms and conditions of this section.
- All work performed hereunder by Consultant shall be performed with the degree of skill and care experienced by professionals in its industry.
- All Services provided hereunder shall be fit for the purposes intended therefore by JPA, as reflected herein.
- Each of the firms listed in the Response as a SEB firm is certified as such under the City of Jacksonville Small Emerging Business Program and shall collectively be utilized in the provision of Services to the extent encouraged under this RFQ in the total billings under this Agreement (excluding costs and expenses, if any).

#### **2.39      INSPECTION**

In addition to the inspection and audit rights set forth in the RFQ, JPA or its agents (including the JPA) or employees may perform inspections of the Services at any reasonable time and at any stage of production. Such inspection or failure to inspect on any occasion shall not affect JPA’s right, or Consultant’s obligations, under warranty or other provisions of this Agreement, nor shall such inspection be deemed acceptable of Services.

#### **2.40      COST OF DEVELOPING RFQ RESPONSE**

All costs related to the preparation of Responses and any related activities are the sole responsibility of Consultant. JPA assumes no liability for any costs incurred by Consultants throughout the entire selection process.

#### **2.41      RESPONSE OWNERSHIP**

All Responses, including attachments, supplementary materials, addenda, etc., shall become property of JPA and shall not be returned to Consultant. JPA will have the right to use any and all ideas or adaptation of ideas presented in any Response. Acceptance or rejection of a Response shall not affect this right.

## **2.42      OWNERSHIP OF WORKS**

(a) As used in Sections 2.42 and 2.43, the term "Work" shall mean each deliverable, drawing, design, specification, rendering, notebook, tracing, photograph, reference book, equipment, expendable equipment and material, negative, report, finding, recommendation, data and memorandum of every description, shared with or delivered to JPA pursuant to the Agreement.

(b) With the exception of Consultant's pre-existing intellectual capital and third-party intellectual capital as described in Section 2.43 below, JPA shall own all right, title and interest, including ownership of copyright (limited to the extent permitted by the terms of any governing licenses), in and to each Work including, but not limited to, software, source code, reports, deliverable, or work product developed by Consultant specifically for JPA in connection with the Agreement, and derivative works relating to the foregoing. The use of these Works in any manner by JPA shall not support any claim by Consultant for additional compensation.

(c) Each Work, and any portion thereof, shall be a "work made for hire" for JPA pursuant to federal copyright laws. Any software, report, deliverable, or work product as used in connection with the Work, but previously developed by Consultant specifically for other customers of Consultant or for the purpose of providing substantially similar services to other Consultant customers, generally shall not be considered "work made for hire", so long as the foregoing are not first conceived or reduced to practice as part of the Work. To the extent any of the Works are not deemed works made for hire by operation of law, Consultant hereby irrevocably assigns, transfers, and conveys to JPA, or its designee, without further consideration all of its right, title and interest in such Work, including all rights of patent, copyright, trade secret, trademark or other proprietary rights in such materials. Except as provided in the foregoing sentences, Consultant acknowledges that JPA shall have the right to obtain and hold in its own name any intellectual property right in and to the Work. Consultant agrees to execute any documents or take any other actions as may reasonably be necessary, or as JPA may reasonably request, to perfect or evidence JPA's ownership of the Work.

## **2.43      INTELLECTUAL PROPERTY**

(a) Consultant grants to JPA an irrevocable, perpetual, royalty free and fully paid-up right to use (and such right includes, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant and the right to sublicense all, or any portion of, the foregoing rights to an affiliate or a third party who provides service to JPA) Consultant's intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) that is contained or embedded in, required for the use of, that was used in the production of or is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of any applicable unit of Work.

(b) If the Work contains, has embedded in, or requires for the use of, any third party intellectual property, or if the third party intellectual property is required for the reproduction, modification, maintenance, servicing, improvement or continued operation of the Work, Consultant shall secure for JPA an irrevocable, perpetual, royalty free and fully paid-up right to use all third party intellectual property. Consultant shall secure such right at its expense and prior to incorporating any third party intellectual property (including, without limitation, all trade secrets, patents, copyright and know-how) into any Work, including, without limitation, all drawings or data provided under the Agreement, and such right must include, without limitation, a right to copy, modify and create derivative works from the subject matter of the grant of the right and a right to sublicense all or any portion of the foregoing rights to an affiliate or a third party service Consultant. This subparagraph does not apply to standard office software (e.g., Microsoft Office).

(c) Should JPA, or any third party obtaining such Work through JPA, use the Work or any part thereof for any purpose other than that which is specified in the Agreement, it shall be at JPA's and such third party's sole risk.

#### **2.44 JPA'S RIGHT TO SUSPEND WORK**

JPA may in its sole discretion suspend any or all activities under the Agreement by providing a written notice to Consultant at least five (5) days in advance that outlines the particulars of suspension. Within ninety (90) days of providing such notice, or within any longer period agreed to by Consultant, JPA shall either (1) authorize the resumption of work, at which time activity shall resume, or (2) terminate the Agreement in accordance with the applicable termination provisions. Suspension of work shall not entitle Consultant to any additional compensation. The parties will reasonably amend any schedules relating to performance of the Services to reflect the suspension of work hereunder. Consultant shall not be entitled to receive compensation for any work it performs after being excused from providing it hereunder.

#### **2.45 DISCRIMINATORY VENDOR LIST**

An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- 1 Submit a bid on a contract to provide any goods or services to a public entity;
- 2 Submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
  - Submit bids on leases of real property to a public entity;

- Be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; or
- Transact business with any public entity.

To view a current list, visit:

[http://dms.myflorida.com/business\\_operations/state\\_purchasing/vendorinformation/convicted\\_suspended\\_discriminatory\\_complaints\\_vendor\\_lists](http://dms.myflorida.com/business_operations/state_purchasing/vendorinformation/convicted_suspended_discriminatory_complaints_vendor_lists)

## **2.46      RESTRICTIONS, PROHIBITS, CONTROLS AND LABOR PROVISIONS**

An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Florida Department of Transportation (FDOT) to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the JPA.

The successful Proposer shall not enter into any contract, subcontract or arrangement in connection with this Contract or any property included or planned to be included in this Contract in which any member, officer, or employee of the FDOT or JPA during the tenure or for two (2) years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to FDOT through JPA, JPA, with prior approval of FDOT, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by JPA relating to the contract, subcontract or arrangement. The successful Proposer is required to insert in each of their subcontracts, the following provision:

“No member, officer or employee of the Agency or of the locality during his tenure for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.”

This same provision shall apply to the successful Proposer.

<b>SECTION 3</b> <b>SCOPE OF SERVICES</b>
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**3.01 PROJECT TITLE**

PROJECT NO: B2024-01

PROJECT NAME.: JFRD FIRE STATION 48

**3.02 PROJECT LOCATION AND LEGAL ADDRESS**

Blount Island Marine Terminal  
Jacksonville, FL 32226

**3.03 BACKGROUND**

JPA Blount Island Marine Terminal (BIMT) is a marine port that handles several types of cargo, mainly containers and vehicles. JPA is planning to build a new fire station for occupancy and use by the Fire & Rescue Department on its property at Blount Island Marine Terminal

**3.04 PURPOSE**

This is a Request for Qualifications (RFQ) from Consultants to provide Construction Engineering Inspection (CEI) services for constructability reviews, contract administration, inspection, and for materials sampling and testing for the new Fire Station #48 at BIMT. JPA reserves the right to review and/or perform some of the work required as part of this project.

The project that will require CEI services under this contract and based on its current design status is:

- The New Fire Station No. 48 at Blount Island Marine Terminal (*Currently Selecting a Design/Build Contractor under JPA's procurement criteria*).

**3.05 SCOPE OF SERVICES**

Services to be provided under this contract may include, but may not be limited to, the following:

- Design Phase constructability reviews
- Schedule and conduct pre-construction conferences as necessary
- Ensure that all necessary private property agreements, utility agreements, construction easements and construction/environmental permits are on file.
- Issue Notices to Proceed to contractors
- Enforce and perform terms of the construction contracts between JAXPORT and the Design/Build Contractor and its contractors
- Review shop drawings submitted by contractors for conformance to the specifications, and distribute to parties as necessary
- Review thoroughly and answer contractors' inquiries and RFI's in a timely manner

- Provide qualified construction inspectors to inspect the work to ensure that construction is proceeding in accordance with the specifications, and that work is constructed in conformance with the contract plans and specifications.
- Direct the contractor, after consultation with JPA, on removal and replacement of defective work which does not meet specifications, or is otherwise incorrectly constructed
- Review and analyze contract change order requests and proposals to determine validity and potential cost/time impacts thereof, and recommend appropriate action to JPA
- Review claims and disputes and recommend necessary actions
- Review and recommend for approval contract change orders and forward necessary documentation and paperwork to JPA as to the necessity for such changes, including substantiation of the extra costs thereof
- Arrange for construction materials testing by third party testing laboratories and review test reports to ensure that materials installed meet the requirements of the contract documents
- Review construction inspection reports relating to the contractors' performance and communicate with each, if necessary, regarding non-conformance to plan specifications, workmanship, etc.
- Review contractors' requests for monthly progress payments and, if appropriate, certify pay application is proper and transmit to JPA with recommendation that the invoice be paid
- Review contractors' pay requests for compliance with minority business enterprise participation requirements
- Review contractors' proposals for additional work or change orders for compliance with minority business enterprise participation requirements
- Adjust requests for monthly progress payments, as necessary, to align amount of pay requested with actual progress of construction satisfactorily performed
- In the event of the need to revise the contract drawings during the construction period, coordinate with JPA and the Design Consultant to obtain the revised originals from the design consultant, review the changes and corrections on behalf of JPA, and coordinate the issuance of new prints for the revised drawings to all parties concerned
- Prepare and maintain monthly progress schedules and reports applicable to all phases of the construction operations, and such special reports as may be required to keep JPA fully advised with respect to the progress of construction of the projects
- Monitor contractors' preparation of in-progress as-built drawings during the course of construction to ensure that final as-built drawings will be easily produced
- Collect final as-built drawings electronically for the project, review for conformance with the contract documents and specifications, and recommend approval/disapproval to JPA
- If final as-builts are recommended for disapproval, monitor contractor's preparation of revised final as-built drawings.
- Prepare a final engineering report on the construction status of each project, including lessons learned.
- Collect documents and deliverables, including release of liens and consent of surety, when required, from the contractors prior to recommending that final payments be made
- Recommend in writing, to JPA to make final payment on the project when appropriate
- Continue acting as JPA's representative throughout the post-construction phase of the projects, which generally cover the contractors' one-year warranty periods



- Deliver final documents, including original construction drawings and specifications, approved as-built drawings. All design drawings for the project to include the as-built drawings will be generated and provided in electronic format to JPA (AutoCAD or MicroStation and (PDF) format). (2) two sets of blue line prints and the projects files to JPA
- Prepare and deliver final project financial accounting reports to JPA
- Evaluate and rate the contractor's performance
- Direct the contractor to replace or correct defective work which becomes known during the warranty period
- Provide monthly status reports to JPA concerning warranty activities and corrective work by contractors.
- Enforce all warranty provisions of the contract documents
- Schedule and conduct an eleven (11) month warranty inspection of the projects including the contractors and design consultants as appropriate
- Develop eleven-month warranty punch list and forward to the contractor for corrective action
- Monitor contractor's performance on addressing the punch list.
- Advise JPA, in writing, when contractors have satisfactorily completed their obligations under the warranty periods of the contracts
- Provide any other construction engineering inspection services as may be necessary to implement a successful project.

### **3.06 CONSTRUCTION MANAGEMENT RESPONSIBILITIES WITHIN JPA'S TECHNOLOGY ENVIRONMENT**

JPA is seeking a CEI firm with strong technical skills to coordinate, manage and inspect this project using web, content management geographic information system (GIS), and e-commerce technology tools throughout the construction phase. Ideal candidate will establish project resource requirements and manage deliverables in a web-enabled environment. The CEI construction manager is expected to drive the delivery, to specification, on schedule and within budget, of this project using a centralized, enterprise-wide communications strategy supporting four components: GIS, project management, performance management and schedule management.

### **3.07 INSURANCE**

See ATTACHMENT G "REQUIRED LIMITS OF INSURANCE". CEI Professional shall provide proof of insurance, which must be approved by JPA before it issues the Notice to Proceed.

### **3.08 SCHEDULE**

Complete all professional services and furnish final deliverables within 12 months from the date of the Notice to Proceed.

### **3.09 APPENDIX**

- A. USDOD OEA General Terms & Conditions



<b>SECTION 4</b> <b>MINIMUM REQUIREMENTS AND REQUIRED DOCUMENTATION</b>
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**4.01 INSTRUCTIONS**

To be considered responsive to this RFQ, Proposer shall provide the following documentation with its SOQ. This documentation shall be in a separate section designated “**Required Forms and Documentation,**” and is excluded from the SOQ page limit. A Proposer response that does not include this documentation will be deemed non-responsive and no further evaluation will be performed. Additionally, if Proposer’s submitted documentation does not, in the sole opinion of JPA, meet the intent of JPA’s minimum requirements, the proposal response will be deemed non-responsive and no further evaluation will be performed.

**4.02 REQUIRED FORMS AND DOCUMENTATION****A. CONSULTANT FIRM’S CONTACT INFORMATION AND EXPERIENCE**

As a minimum requirement, the Consultant Firm must have at least ten (10) years of experience in providing professional engineering consulting and design services. This is in addition to project-specific experience that Proposer will establish using a minimum of three (3) projects undertaken by Proposer within the past five (5) years.

Consistent with Florida Statutes, Section 287.055(4)(b), as amended, which includes location of Consultant Firm, JPA’s goal is that the selected Consultant Firm have a servicing office permanently located in or about Jacksonville, Florida during its the performance of this Agreement. Proposer shall provide the following information:

1. Address and phone number of its corporate headquarters.
2. Address and phone number of Proposer’s office that will render service under this Agreement, if it is different from Proposer’s headquarters.
3. Certification of status as a minority business, if applicable.
4. Name(s), address, email, and phone number of the principal- or principals-in-charge.
5. Years in business under the name used by Proposer.
6. Changes in ownership.
7. Has the Consultant Firm been involved in any type of actual or threatened litigation in the past ten (10) years? If so, provide the following information for each matter:

- a. Name of the other party,
- b. The material allegations at issue, and
- c. Final disposition of the matter.

**B. CONSULTANT FIRM REGISTRATION AND LICENSES**

1. Proposer shall provide proof that it is a licensed engineer authorized to practice in Florida in compliance with Chapter 471, Florida Statutes.
2. Provide a photocopy of Proposer's firm Certificate of Status from the Florida Division of Corporations ([www.sunbiz.org](http://www.sunbiz.org)) that establishes that the firm is currently registered, is in good standing, and is authorized to conduct business, in the state of Florida.

**C. CONSULTANT FIRM FINANCIAL RESPONSIBILITY**

Proposer shall provide the following information:

1. Its form of business, i.e., proprietorship, partnership, corporation, limited liability company.
2. Its bank references and any other information the applicant may wish to supply to verify its financial responsibility and capability to undertake this Agreement.
3. An audited financial statement prepared by an independent Certified Public Accountant in accordance with generally accepted accounting principles (GAAP) and issued by AICPA for the Proposer's most recently completed fiscal year.

**D. CONSULTANT FIRM RELEVANT EXPERIENCE AND REFERENCES**

1. Proposer shall certify that it has been lawfully engaged in the practice of engineering Construction Engineering Inspection Services in Florida for the past ten (10) years.
2. Proposer must provide a minimum of five (5) projects and a maximum of seven (7) projects showing experience with engineering in the maritime industry or with an organization with a size similar to or larger than the JPA. Proposer must provide the following information:
  2. A brief summary of the project scope.
  3. Starting and completion dates of the construction work.

4. Final engineering and design cost.
5. Final construction cost.
6. Owner Company Name, Contact Name, Address, phone number, and email address.

**E. PRIMARY SUBCONSULTANTS CONTACT INFORMATION**

Proposer shall provide the following information for each of the primary Subconsultant Firms on the Proposer's team:

1. Address of the corporate headquarters and phone number.
2. Address and phone number of Subconsultant's office that will render service under this Agreement, if it is different from Subconsultant's headquarters.
3. Certification of status as a minority business, if applicable.
4. Name(s), address, email, and phone number of the principal-in-charge.
5. Years in business under the name used by Subconsultant.
6. Changes in ownership.

**F. ACKNOWLEDGEMENT OF ADDENDA AND SOQ SIGNATURE PAGE – SEE ATTACHMENT "A"**

The SOQs shall be signed as indicated in Attachment "A", including typed or printed name and title of the signer. SOQ's shall be signed by an individual with legal authority to bind Proposer. The signature of Proposer's Authorized Representative on the SOQ must be made by an officer of Proposer if Proposer is a corporation or LLC, by a partner if the firm is a partnership, or by the proprietor, if the firm is a sole proprietorship.

**SECTION 5  
EVALUATION CRITERIA**

**5.01 INSTRUCTIONS AND EVALUATION CRITERIA**

Each Proposer is solely responsible to ensure that its SOQ adequately responds to the evaluation criteria described below. Proposers shall provide with their proposal any other information relevant to the application of the proposal evaluation criteria. The Evaluation Committee will rank proposals based on the proposal evaluation criteria. The Evaluation Committee will determine qualifications, interest, and availability by reviewing all written proposal responses that express an interest in performing the services, and when deemed necessary, by conducting formal interviews of selected respondents that are shortlisted and determined to be best qualified based on evaluation of proposals.

The response to each proposal evaluation criterion will be evaluated relative to other responses received and awarded a score of one (1) through the maximum point value. Proposers are encouraged to arrange their responses in a format that will facilitate ready review and evaluation of each proposal evaluation criterion.

**Failure to provide adequate information on any written proposal evaluation criterion will result in lower scores and could result in rejection of the proposal as non-responsive.**

The proposal evaluation criteria are as follows:

<b>EVALUATION FACTORS</b>	<b>MAX POINT VALUE</b>
A. Personnel Qualifications and Experience	30 Points
B. Recent, Current and Projected Workload	10 Points
C. Financial Responsibility	5 Points
D. Ability to Observe and Advise Whether Plans and Specifications are Being Complied with, Where Applicable	25 Points
E. Past and Present Record of Professional Accomplishments and Past Record of Performance for Projects of Similar Scope with using Agencies	5 Points
F. Proximity to the Project	10 Points
G. Past and Present Demonstrated Commitment to Small and Minority Businesses and Contributions Toward a Diverse Market Place	20 Points

H. Ability to Design and Approach and Work Plan to Meet the Project Requirements	20 Points
I. An Overall Willingness to Meet Both Time and Budget Requirements for the Project	10 Points
J. The Volume of Current and Prior Work Performed for Using Agencies	5 Points
<b>MAXIMUM AVAILABLE POINTS</b>	<b>140</b>

## 5.02 SELECTION CRITERIA

### A. PERSONNEL QUALIFICATIONS AND EXPERIENCE - (MAXIMUM SCORE: 30 Points)

Firm shall provide a project organizational chart showing and describing Proposer's personnel, reporting structure, and personnel responsibilities and functions specifically for this engagement. The chart shall also provide the same relevant information for Subconsultants.

Any existing commitment of personnel shown in the organization chart that could conflict with availability for this engagement shall be clearly shown and explained. Evaluation of this Factor will also include consideration of proposed Subconsultant Firms. Proposals shall contain a maximum of ten (10) resumes of all key staff as well as key staff of Subconsultant Firms that are proposed for this engagement. At a minimum, resumes shall provide employee name, title, years of service with the firm, applicable professional registrations, education, relevant work experience, and years of experience in the fields related to wharf and pier design. Resumes shall also identify any specialty or technical expertise relevant to this engagement. Resumes should be single-sided and no more than two (2) pages in length. If more than two pages are submitted, only the first two pages will be evaluated. Resumes shall not count against any SOQ page limitation.

At a minimum, Proposer shall provide resumes of the following staff (aka as "Team Member" or "Team Members") being offered to perform these roles on this engagement: (1) Project Principal, (2) Project Manager - Director, (3) Senior Engineer, (4) Inspectors, and (5) any other staff member that Proposer considers key to this engagement, such as Subconsultant's that will be assigned. A Team Member can only serve in one project role. Team Members whose resumes are submitted shall actually perform the contemplated professional services unless after contract award the Firm submits a substitution request and receives prior approval from JPA's Senior Director of Engineering and Construction.

Provide the name and office locations of any Subconsultants proposed to be used on this engagement. Evaluation of this Factor will include a consideration of any proposed Subconsultants.

The SOQ shall clearly document that Proposer itself has possesses a minimum of ten (10) years of experience in professional marine engineering consulting and design.

Provide any other documentation that Proposer believes will allow the Evaluation Committee to fully understand its competency to perform on this engagement.

**Key Personnel - Minimum Requirements**

1. **Project Principal** – Shall have a minimum of fifteen-years (15) of professional engineering consulting and design services experience with projects of similar size and scope. Provide a photocopy of the Project Principal’s Professional Engineer current license issued by the State of Florida Department of Professional Regulation along with Project Principal’s current address.
2. **Project Manager - Director** – Shall have a minimum of ten-years (10) of Professional Project Management and Inspection Services experience, which consist of providing cooperative assistance such as construction management, inspections, studies, opinions, and civil engineering support to the Engineering’s staff. Provide a photocopy of the Professional Engineer(s) current license(s) to be assigned to this contract issued by the State of Florida Department of Professional Regulation along with a current address.
3. **Senior Engineer** – Shall have a minimum of ten (10) years of Professional Project Management and Inspection Services expertise necessary to fully implement JPA’s Capital and Maintenance Programs in an efficient manner. Provide a photocopy of the Professional Engineer(s) current license(s) to be assigned to this contract issued by the State of Florida Department of Professional Regulation along with a current address.
4. **Inspectors** - Shall have a minimum of seven-years (7) of Professional Inspection Services expertise necessary to fully implement JPA’s Capital and Maintenance Programs in an efficient manner. Provide a photocopy of the Professional Engineer(s) current license(s) to be assigned to this contract issued by the State of Florida Department of Professional Regulation along with a current address.

**B. RECENT, CURRENT AND PROJECTED WORK LOAD - (MAXIMUM SCORE: 10 Points)**

Provide number and size of projects currently being performed by the personnel listed on the organization chart, stage of completion of each project, an anticipated completion date. Discuss ability of lead office of the consultant firm to prosecute multiple concurrent projects and contracts given its current workload. Proposer may include charts and graphs to demonstrate the current and projected workloads of the office proposing the work and may identify or explain the method Proposer will use to adjust for any work-hour fluctuations.

**C. FINANCIAL RESPONSIBILITY - (MAXIMUM SCORE: 5 Points)**

Describe form of business, i.e., proprietorship, partnership, corporation; years in business; changes in ownership; bank reference(s); past, present, pending and/or threatened legal proceedings within any forum; net worth and any other information the Contractor may wish to supply to

demonstrate financial responsibility. Failure to provide all listed information and documentation will result in score less than maximum for this criterion.

**D. ABILITY TO OBSERVE AND ADVISE WHETHER PLANS AND SPECIFICATIONS ARE BEING COMPLIED WITH, WHERE APPLICABLE - (MAXIMUM SCORE: 25 Points)**

Describe ability and experience of Consultant Firm and assigned personnel in observing and monitoring construction projects, ensuring that construction is proceeding in accordance with the plans and specifications, and other construction phase services. Evaluation of this criterion will also consider the Consultant Firm's ability to interpret specifications as evidenced by the preparation of a response to this RFQ.

**E. PAST AND PRESENT RECORD OF PROFESSIONAL ACCOMPLISHMENTS AND PAST RECORD OF PERFORMANCE FOR PROJECTS OF SIMILAR SCOPE WITH USING AGENCIES - (MAXIMUM SCORE: 5 Points)**

Provide information on completed projects similar in scope to projects under consideration previously performed by Consultant Firm with references to include owner's contact person with their contact information. Describe any outstanding accomplishments of the Consultant Firm that relate to the specific services being sought. Submit any letters of commendation or awards which reflect the professional accomplishments of the Consultant Firm. List only those projects where the Consultant Firm was the Consultant Firm (not a sub Consultant Firm).

Responding to this evaluation criterion necessitates that proposers include statements of their past and present record of professional accomplishments or performance:

- (i) on projects undertaken for the Jacksonville Port Authority as well as all of the "Independent Authorities" for the City of Jacksonville, and other "using agencies" of the City of Jacksonville, which is defined in the Jacksonville Ordinance Code as "a department, division, office, board, agency, commission or other unit of the City and any independent agency required by law or voluntarily requesting to utilize services of the (Procurement) Department;" and
- (ii) on projects undertaken with others that are similar in nature to the size and scope of professional services and / or work required for the project solicitation herein. Respondents are requested to state with specificity whether or not, within the past five years, they have provided the scope of services contemplated herein.
- (iii) List only those projects where the Consultant was the Consultant (not a subconsultant).

(iv) provide a self-assessment of the Consultant's performance on each project, including type of work performed as it relates to JPA's requirements.

**F. PROXIMITY TO THE PROJECT – (MAXIMUM SCORE: 10 Points)**

Disclose location of the Consultant Firm's corporate headquarters. If Consultant Firm's corporate headquarters are located in Jacksonville, (which, for purposes of this RFQ is deemed to include NE Florida and surrounding counties of Clay, St. John's, Nassau, and Putnam), no further information is required under this criterion and maximum points will be awarded.

If Consultant Firm's corporate headquarters are not located in Jacksonville, please indicate whether Consultant Firm maintains a branch office in Jacksonville. If so, please indicate how long the Jacksonville branch office has been in continuous existence and the number of qualifying employees that are expected to perform services on the contract are currently assigned to the branch office. (Note: Qualifying employees are those who are assigned to the Jacksonville branch office and have lived in the Jacksonville area for the previous twelve (12) months). Consultant Firm shall submit a proposed staffing plan for the local office in their response to the RFQ.

If the Consultant Firm's corporate headquarters are not located in Jacksonville and Consultant Firm does not maintain a Jacksonville branch office, the response should so clearly state. Minimum points will be awarded in this criterion in this instance. The selected Consultant Firm will be required to verify its location by furnishing, prior to execution of an Agreement for professional services, a photo-copy of a current Occupational License issued by the Tax Collector of Duval County.

1. A local office is not required in order to respond to this RFQ, but one must be established prior to execution of a contract and a proposed local office staffing plan (cross referenced to key resumes include in Criteria "A") must be provided in the Consultant Firm's response. If no staffing plan is provided, the resulting score will be zero.

**G. PAST AND PRESENT DEMONSTRATED COMMITMENT TO SMALL AND MINORITY BUSINESSES AND CONTRIBUTIONS TOWARD A DIVERSE MARKET PLACE - (MAXIMUM SCORE: 20 Points)**

This evaluation criterion is intended to solicit responses from proposers that indicate their past and present commitment to the Small Emerging Business (SEB), Disadvantaged Business Enterprises (DBE), Small Business Enterprises (SBE), Minority Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) programs. More specifically, responses to this evaluation criterion should include, without limitation, statements that document the proposer's:

1. Commitment to diversity among the directors, officers, members and/or employees that make up its firm;
2. Commitment to diversity within its community and beyond;
3. Past and present commitment to and/or utilization of SEB's, DBE's, SBE's, MBE's and WBE's.
4. Future commitment and administrative requirements to these programs in reference to this SOQ.



- (a) Indicate Consultant Firms Team and/or Sub Consultant Firm's certifications for listed programs that apply.
- (b) Provide Sub Consultant Firm contract language to be utilized.
- (c) Provide the administrative procedures that your firm will utilize to ensure maximum participation and reporting as it relates to these programs.

Consultant Firm shall also disclose its anticipated Small Emerging Business participation goal as part of this Criterion.

**H. ABILITY TO DESIGN AND APPROACH AND WORK PLAN TO MEET THE PROJECT REQUIREMENTS - (MAXIMUM SCORE: 20 Points)**

Describe the Contractor's understanding of the requirements of this solicitation, and its ability, approach and/or plan to satisfy the same. Identify time and cost saving possibilities.

**I. AN OVERALL WILLINGNESS TO MEET BOTH TIME AND BUDGET REQUIREMENTS FOR THE PROJECT - (MAXIMUM SCORE: 10 Points)**

In an effort to remain consistent with Chapter 287, Florida Statutes, responding to this evaluation criterion necessitates that the Consultant Firm include statements and references demonstrating that the Consultant met both time and budget requirements on projects of similar size and scope that were completed by the Consultant within the past five-years (5) and that the Consultant is meeting both time and budget requirements on projects of similar size and scope that are currently being performed by the Consultant.

As part of its response to this evaluation criterion, the Consultant:

- 1. Must submit an expressed statement of its overall willingness to meet both time and budget requirements for the project in question; and
- 2. Should submit, without limitation, project narratives, schedules, cost and fee summaries and owner references for any Reference Projects.

**J. THE VOLUME OF CURRENT AND PRIOR WORK PERFORMED FOR USING AGENCIES – (MAXIMUM SCORE: 5 Points)**

JPA will consider the volume of work previously awarded to each Proposing Firm by Using Agencies, with the objective of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms.

The term "Using Agencies" is defined as the City of Jacksonville and each of the "Independent Authorities", as well as all other "using agencies" of the City of Jacksonville as defined in the Jacksonville Ordinance Code as "a department, division, office, board, agency, commission or other unit of the City and any independent agency required by law or voluntarily requesting to

utilize services of the [Procurement] Department.” Forms are not included in any SOQ page limitation.

Proposers shall submit a list of all local JPA projects on which Proposing Firm and Subconsultant Firms have been awarded fees during the past five (5) fiscal years. Include only those in which Proposing Firm was the lead Consultant Firm (do not delete fees paid to Subconsultant Firms or others).

If the Proposer and Subconsultant Firms have not performed work for any Using Agencies during the past five (5) years, the response should so clearly state. Failure to provide complete and accurate information will result in lower score on evaluation. Failure to list amounts of all fees may result in rejection of proposal as non-responsive.

Proposing firms that performed no work in the past five years for the Using Agencies will receive five (5) points. Proposing firms that have performed work for Using Agencies will receive between one (1) and four (4) points as reasonably determined by the Evaluation Committee.

### **5.03 EVALUATION OF STATEMENTS OF QUALIFICATIONS**

1. **Proposal Response Page Limit.** Proposer’s response shall not exceed twenty-five (25) pages excluding the cover letter. Pages in excess of 25 will not be evaluated.
2. **Initial Screening.** JPA will review the submitted proposals to assure that they are responsive, meet the page limit specified in section 5.03(1), and satisfy the minimum requirement. Proposals deemed unresponsive will be returned to Proposer with a brief explanation of the reason for rejection.
3. **Evaluation Committee.** Following initial screening, JPA will convene an evaluation committee of at least three members, one of whom may be a staff member of JPA’s Engineering and Construction Department. The evaluation committee members will each independently evaluate and rank each proposal in accordance with the proposal evaluation criteria contained in section 5.02 above.
4. **Proposal Scoring.** Each proposal evaluation criterion will have a value from one to the maximum point value stated for that criterion in section 5.02. A perfect score is 140 points. At JPA’s sole discretion, Proposers may be invited to make oral presentations prior to final selection. These presentations will be scheduled at JPA’s convenience. JPA is not be liable for any costs incurred by the Proposer in connection with oral presentations. JPA is not required to contact a Proposer to obtain additional information to evaluate the proposal.

5. **Award.** JPA will make an award based on Proposer's ability to meet JPA's needs and requirements based on the proposal evaluation criteria. It is JPA's intent to award to the Proposer firm, which, in JPA's sole opinion, is the most qualified and capable of providing the best overall service consistent with the goals and objectives, and in accordance with Florida Statutes Section 287.055 as amended.
  
6. **Negotiation with Successful Proposer.** The successful Proposer shall provide a schedule of proposed rates and costs prior to negotiations. These rates and costs will be used in the negotiation of fees and shall remain in effect throughout the length of this Agreement. Proposed overhead rates shall conform to Federal Acquisition Regulations as established by a governmental audit or certified to by a certified public accountant. Profit shall be applied only to direct labor plus overhead. No markup or profit will be paid on non-labor related job costs, reimbursables or on services provided by subconsultants or others.

*(The remainder of this page is intentionally left blank)*

**ATTESTMENTS AND STATEMENT OF QUALIFICATIONS (SOQ) SIGNATURE PAGE**

**Submission of SOQ in connection with JAXPORT's Request for Qualification (RFQ)  
AE-1935B Construction Engineering Inspection Services for JFRD Fire Station #48**

The undersigned ("Respondent") submits this SOQ in the response to JAXPORT's Request for Qualification (RFQ) AE-1935B Construction Engineering Inspection Services for JFRD Fire Station #48 as amended by (enter the date of each Addendum issued):

Addendum No. 1, Dated \_\_\_\_\_

Addendum No. 2, Dated \_\_\_\_\_

Addendum No. 3, Dated \_\_\_\_\_

Addendum No. 4, Dated \_\_\_\_\_

Enclosed, and by this reference incorporated in and made part of this SOQ, are each of the submittals required in accordance with the RFQ each as required to be submitted in accordance with the RFQ.

The Respondent represents and warrants that it has read the RFQ and agrees to abide by the contents and the terms of the RFQ and the statements and commitments in the Respondent's SOQ.

Furthermore, the Respondent agrees that JAXPORT will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in the RFQ.

Respondent acknowledges that it received all addenda specifically listed above, together with those sets of RFQ Comments and published responses made available through the SOQ Due Date.

The respondent understands and agrees that all costs and expenses incurred in preparing this SOQ and participating in the procurement process for this SOQ will be borne solely by the respondent.

The Respondent understands that JAXPORT is not bound to Shortlist any Respondent and may reject each SOQ that JAXPORT may receive.

The Respondent acknowledges and agrees to the protest provisions and understands that it limits the Respondent's rights and remedies to protest or challenge the RFQ or any determination or shortlisting thereunder.

**Additionally, the Respondent attests to the following (place initials and date next to each item):**

- A. \_\_\_\_\_ I hereby attest that I, as the Respondent, agree to comply with The Buy American Act, 41 U.S.C. §§ 8301-8305, and I have fully read and agree to follow the requirements of U.S. Department of Defense Office of Economic Adjustment Grant Agreement (Appendix A of AE-1935B). Failure to follow the U.S. Department of Defense Office of Economic Adjustment Grant Agreement may result in termination of the contract and/or financial penalties.
  
- B. \_\_\_\_\_ I hereby attest and understand that JAXPORT is entitled to recover from the Respondent any and all funds that have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner under this Project.
  
- C. \_\_\_\_\_ I hereby attest that I, as the Respondent, have fully read the U.S. Department of Defense Office of Economic Adjustment Grant Agreement for this Project (Appendix A of AE-1935B), including, but not limited to, "General OEA Terms and Conditions", "National Policy Requirements", and Program-Specific Terms and Conditions", I hereby attest that I, as the Respondent, understand all of the applicable laws and regulations for this Project and agree to comply with all of the applicable laws, regulations, and executive orders. I understand that failure to comply with the applicable laws, regulations, and executive orders may result in a termination of the contract and/or financial penalties.

SOQ's shall be signed below; including typed or printed name and title of the signer. SOQ's must be signed by an individual with the authority to bind the Proposer. The signature of Authorized Representative on the SOQ must be made by an officer of the Proposer if the Proposer is a corporation, by a partner if the firm is a partnership, or by the proprietor, if the firm is a sole proprietorship.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
DUNS Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Signatory

CONFLICT OF INTEREST CERTIFICATE

Proposer must execute either Section I or Sections II and III, hereunder, as required by Chapter 112 of the Florida Statutes. Failure to execute either Section I or Section II and Section III may result in the rejection of this bid / proposal.

SECTION I

I hereby certify that no public officer or employee of the Jacksonville Port Authority (The JPA) has a material financial interest or any business entity of which the officer, director or employee of the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the official's, director's or employee's spouse or child, or any combination of them, has a material interest in this contract.

"Material Interest" means direct or indirect ownership of more than 10 percent of the total assets or capital stock of any business entity.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name of Official (type or print)

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Date

CONFLICT OF INTEREST CERTIFICATE

SECTION II

I hereby certify that the following named public official(s) and/or the JPA employee(s) having material financial interest(s) (in excess of 10%) in this company have each filed Section III (Public Official Disclosure) with the Jacksonville Port Authority, Office of the Chief Executive Officer, 2831 Talleyrand Avenue, Jacksonville, Florida 32206-0005 prior to the time of bid opening.

Name	Title or Position	Date of Public Official Disclosure Filing

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name of Official (type or print)

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Date



CONFLICT OF INTEREST CERTIFICATE

SECTION III (PUBLIC OFFICIAL DISCLOSURE)

The JPA requires that a public official who has a financial interest in a proposal or contract make a disclosure at the time that the proposal or contract is submitted or at the time that the public official acquires a financial interest in the proposal or contract. Please provide disclosure, if applicable, with proposal.

Public Official Signature: \_\_\_\_\_

Public Official Name: \_\_\_\_\_

Public Position Held: \_\_\_\_\_

Position or Relationship with Bidder: \_\_\_\_\_

Date: \_\_\_\_\_

SWORN STATEMENT PURSUANT TO SECTION 287.133(3) (A), FLORIDA STATUTES,  
ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY  
PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to \_\_\_\_\_  
(print name of the public entity)  
by \_\_\_\_\_  
(print individual's name and title)  
for \_\_\_\_\_  
(print name of entity submitting sworn statement)

whose business address is \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the individual signing this  
sworn statement: \_\_\_\_\_.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
- A. A predecessor or successor of a person convicted of a public entity crime; or
  - B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime.

The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person.

A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **(Indicate which statement applies.)**

\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent of July 1, 1989.

\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. **(Attach a copy of the final order)**

**I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND**

THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

PERSONALLY APPEARED BEFORE ME, the undersigned authority, by means of physical presence or online notarization, \_\_\_\_\_ who, after first being sworn by me, affixed (name of individual signing)his/her signature in the space provided above on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

**CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The applicant certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant Firm, 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 awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Consultant Firm shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Consultant Firm shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under loans, and cooperative agreements) and that all sub-recipients shall certify and disclosure accordingly.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name of Official (type or print)

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Date

**ACKNOWLEDGEMENT AND ACCEPTANCE OF E-VERIFY COMPLIANCE****E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION**

In accordance with the Governor of Florida, Executive Order Number 11-02 (Verification of Employment Status), whereas, Federal law requires employers to employ only individuals eligible to work in the United States; and whereas, the Department of Homeland Security's E-Verify system allows employers to quickly verify in an efficient and cost effective manner;

The Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the contract. Contractors must include in all subcontracts the requirement that all subcontractors performing work or providing goods and services utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. The Contractor further agrees to maintain records of its participation and compliance and its subcontractor's participation and compliance with the provisions of the E-Verify program, and to make such records available to JAXPORT upon request. Failure to comply with this requirement will be considered a material breach of the contract.

**By signing below, I acknowledge that I have reviewed, accept and will comply with the regulations pertaining to the E-Verify program.**

---

 Company Name

Name of Official (Please Print)

---

 Signature of Principal

Title:

Date

**AGREEMENT  
BETWEEN  
JACKSONVILLE PORT AUTHORITY  
AND  
CONSULTANT NAME**

This Agreement entered into as of \_\_\_\_\_, 2024 (the “Effective Date”) by and between Jacksonville Port Authority, a public body corporate and politic under the laws of the State of Florida (the “Authority”), located at 2831 Talleyrand Avenue, Jacksonville, Florida 32206 and **Consultant Name** (the “Consultant”), a **Consultant State** corporation with its principal offices at **Consultant Address, Consultant City, State, Zip Code** to provide, subject to separate engagements incorporating the terms of this Agreement for Request for Qualifications (“RFQ”) AE-1935B Construction Engineering Inspection Services for JFRD Fire Station #48 for the Jacksonville Port Authority.

**WHEREAS**, the Authority, based on Consultant’s response to the RFQ and subsequent interviews and/or negotiations, has selected the Consultant as having satisfactory qualifications to perform such services for the Authority; and;

**WHEREAS**, the Consultant represents that it has the professional qualifications, capability and willingness to perform the professional services required to assist the Authority in scoping and implementing the Authority’s Project; and;

**WHEREAS**, the Authority and Consultant have successfully negotiated the terms of this Agreement in accordance with the provisions of §287.055, Florida Statute.

**NOW THEREFORE**, in consideration of the covenants and promises herein contained, and for other good and valuable consideration, the Authority and Consultant agree as set forth below:

**DEFINITIONS**

**1. The Authority: Jacksonville Port Authority (JAXPORT)**

A public body whose plans and projects outline and define the work required to construct the project.

**2. Request for Consultant Services**

A document produced by the Authority and issued to the Consultant that defines a project, funding source, states the general goals and objectives of the project, identifies those services requested of the Consultant, and requires a written response (within a stated time) from the Consultant in the form of a Project Proposal as defined in Section 1.2.1.

**3. Subconsultant.**

A person or company who is not an employee or owned by the Consultant, who may provide professional services to the Consultant, for the express benefit of Authority, through a contractual relationship with the Consultant.



**4. Project.**

A defined set of parameters that encompass all those activities and actions necessary to produce, complete, or attain a design, specific physical change, alteration, study, inspection or other activity.

**5. Consultant.**

A person or entity licensed to do business in the State of Florida to provide Professional Consulting and Design Services.

**6. Capital Purchase Order.**

A purchase document, initiated by the Authority where specific project parameters, conditions, schedules, payment method and price are defined. Receipt of a fully executed Capital Purchase Order is the authorizing document for the Consultant to begin work.

**7. Contract Documents.**

The Contract Documents shall consist of this Agreement, the Capital Purchase Order, any duly authorized contract amendment or change order, the RFQ and consultant's response to the RFQ all of which are hereby incorporated by reference as if fully set out herein. The Contract Documents are meant to be complementary and what is called for by one is called for by all. If there are any conflicting terms between the Contract Documents the following is the order of precedence Authority will generally consider in resolving the conflict:

- Amendment/change order to Capital Purchase Order
- Capital Purchase Order
- Amendments to Agreement
- Agreement, including all Exhibits
- RFQ and all addenda thereto
- Consultant's Response to RFQ

**ARTICLE 1 - CONSULTANT'S SERVICES AND RESPONSIBILITIES**

**1.1 Division of Work.**

It is the desire of the Jacksonville Port Authority that the work of this Agreement be shared with other qualified consultants of Northeast Florida to the extent that such goal does not diminish the goal of selecting the most qualified consultants.

Subconsultants who are selected by the Consultant should preferably be established Florida firms who are not owned by the Consultant, and have a substantial presence in Florida. In all cases, the Consultant will be the single point of contact for the Authority for all issues related to this Agreement. The Consultant will retain all responsibility and liability for the performance of its Subconsultants.

### **1.2.1 Work Plan.**

The Project Work Plan shall identify on a task-by-task basis, specific technical and/or administrative resources, and tasks that will be required to fully and completely respond to the JAXPORT's Request for Qualifications." In developing the Project Work Plan, the Consultant shall be responsible for reviewing the requirements for the Project with the Authority, to assure a full and complete understanding, delineation and achievement of the goals and objectives for the Project.

The Work Plan proposed by the Consultant shall include, but not necessarily be limited to an itemization of the tasks that will be accomplished by the Consultant through the various phases of the Project. The Work Plan shall be developed by the Consultant in a manner that will assure the orderly progression and successful completion of the requested service and the accuracy, timeliness, and cost effectiveness of all work produced by the Consultant.

### **1.2.2 Budget.**

The Project Budget shall provide a detailed estimate and itemization of all costs that will be incurred in accomplishing the Project Work Plan. Only costs specifically authorized by this Agreement, or otherwise in writing by the Authority, shall be used to develop the Project Budget. The Project Budget shall be organized into the following categories:

- o Professional fees based on Contract Hourly Rates, as detailed in EXHIBIT "A."
- o Direct (reimbursable) expenses as defined in EXHIBIT "A."
- o Preliminary budget estimate of all costs necessary to complete the Project through construction, testing, and final acceptance.

### **1.2.3 Implementation Schedule.**

The Implementation Schedule shall be maintained using e-Builder software, a computer-based project management system that is capable of graphically depicting and tracking the duration, dependency, and cost of each phase and/or task necessary to complete the Work Plan. The Implementation Schedule shall clearly identify all Project milestones, be capable of assigning and monitoring the utilization of all resources assigned to the Project, and be fully suitable for reporting progress throughout the duration of the Project.

### **1.2.4 Staffing Schedule.**

The Staffing Schedule shall detail the proposed staff to be assigned to the Project, including Subconsultant staff, where utilized. Clearly identify each participant's role and note which individual(s) is responsible for quality assurance and cost control. Consultant shall notify Authority in advance of any changes or substitutions to the Staffing Schedule, along with a brief justification.

**1.2.4.1** Though the Project Proposal shall contain a Work Plan, Budget, Implementation Schedule, and Staffing Schedule as essential elements, the organization and structure of the detailed Project Proposal may vary, depending on the nature of the Project and the specific services to be rendered. The Authority shall be the final determinant as to the acceptability of the Project Proposal.

**1.2.4.2** Actual service shall be rendered for the Project being specifically authorized by the Authority with issuance of a Capital Purchase Order, as detailed in Section 1.2.5.

### **1.2.5 Capital Purchase Order.**

Following review, and a determination of acceptability of the Consultant's detailed Project Proposal, the Authority shall issue a Capital Purchase Order. The Capital Purchase Order shall summarize the scope of each assignment, any limiting conditions or requirements, and authorize the initiation of service on the Project. The Capital Purchase Orders shall be subject to the approval of the JAXPORT Engineering and Construction Department or the Granting Authority where grant funding is to be utilized in the Project. The Capital Purchase Order shall contain a Maximum Indebtedness or Not to Exceed amount that indicates the consideration to be paid by Authority to Consultant for the Work performed pursuant to the Capital Purchase Order.

### **1.3 Subconsultants.**

It is understood and agreed that there are no Subconsultants as parties to this Agreement. It is further agreed that when and if the services of a Subconsultant firm is necessary, the selection of that firm and the respective responsibilities of that firm are the sole responsibility of the Consultant. All Subconsultants are subject to prior acceptance, in writing, by and at the sole discretion of the Authority.

### **1.4 Project Management.**

#### **1.4.1 Project Manager.**

It is understood and agreed that **Consultant's Project Principal's Name** shall represent the Consultant as its Project Principal in the performance of this Agreement. **Consultant's Project Manager's Name** will be the Project Manager. The remaining job categories will be filled by the Consultant's resources as outlined in Exhibit "A."

**1.4.1.1** No one else will be assigned to act in the capacity of the Project Manager without prior written approval of the Authority (see Article 3.6), which will generally not be given, except under extenuating circumstances.

**1.4.1.2** It is further understood and agreed that the Consultant's Project Manager shall be responsible for, and will direct and coordinate the activities of the Consultant, its Subconsultants and any other provider of service in carrying out the work, as set forth in the Capital Purchase Order issued under this Agreement.

### **1.5 Responsibility of the Consultant**

**1.5.1** The Consultant shall be responsible for the professional certifications, quality, technical accuracy and the coordination of all calculations, design, drawings, specifications, recommendations, reports, inspections, surveys, change orders, and other services furnished by or through the Consultant under this Agreement. Without limiting any of its other obligations or liabilities the Consultant shall, and without additional compensation, correct or revise or cause to

be revised any errors or omissions in its work and other services, and shall be responsible for any delay, disruption, or other damages consistent with the Consultant's responsibilities.

The standard of care expected from these consultant services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time said services are performed.

**1.5.2** The Consultant shall ascertain from the Authority and understand the budgetary constraints for the Project and major sub-elements thereof. This information shall be disseminated throughout the Consultant's staff, including Subconsultants, if any, so as to enable compliance with Section 5.4.2.

**1.5.3** If, during any stage of the Project, an error, conflict or omission is encountered in construction or testing documents under the responsibility of the Consultant, the Authority shall direct the Consultant to correct said error, conflict or omission at no additional cost to the Authority. If the error is discovered after work has commenced on the subject of the error, the Consultant shall be responsible for all costs of necessary corrective actions that exceed the normal, reasonable cost of similar installations, testing, or construction had the subject error, conflict or omission not occurred. If the Consultant should fail to take the necessary actions to initiate and pay for the corrective actions, as outlined in this Article, the Authority may initiate corrective action and pay those costs directly to the appropriate party, and subsequently deduct that amount from any sum owed the Consultant. In the event that the Consultant should dispute the Authority's direction in this regard, the Consultant shall proceed diligently with the work and services in accordance with the decision of the Authority, pending final settlement of the dispute, in accordance with Article 13. of this Agreement.

**1.5.4** Neither the Authority's review, approval or acceptance of, nor payment for any of the services required under this Agreement shall be construed to constitute a waiver of any rights under this Agreement or, of any cause of action arising out of the performance of this Agreement, and the Consultant shall be and remain liable to the Authority and in accordance with applicable law for all damages to the Authority caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

**1.5.5 Consultant's Personnel at Construction Site.**

The presence or duties of Consultant's personnel at a construction site, whether as on-site representatives or otherwise, do not make Consultant or Consultant's personnel in any way responsible for those duties that belong to Authority and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties and responsibilities including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction contract documents, and any health or safety precautions required by such construction work.

**1.5.6 Contractor Indemnification and Claims.**

Authority agrees to include in all construction contracts the provisions of Section 1.5.5, "Consultant's Personnel at Construction Site," and provisions providing contractor indemnification of Authority and Consultant for Contractor's negligence.

### 1.5.7 Materials and Samples.

Any items, substances, materials or samples removed from the Project site by the Consultant, for testing, analysis or other evaluation will be returned to the Project site within 60 days of Project closeout, unless agreed to otherwise by the Authority. Authority recognizes and agrees that Consultant is acting as an independent contractor.

## ARTICLE 2 - COMPENSATION AND METHOD OF PAYMENT

### 2.1 Method of Payment.

**2.1.1** This Section describes the methods of compensation to be made to the Consultant for the services set forth in Exhibit “A.” The services are to be provided over the duration of the work specified in the RFQ AE-1935B Construction Engineering Inspection Services for JFRD Fire Station #48 for the Authority. Services to be provided under this Agreement by the Consultant shall consist of the project assignment as defined in the Request for Qualifications. Compensation for services provided will be based on one of the following methods:

**2.1.2** Cost Plus – Payment for services provided shall be on the basis of Contract Hourly Rates as outlined in Exhibit “B.” The number of hours and the resources required to complete this project have been negotiated and the Consultant will be held to that number of hours unless there is a significant change in scope of services and the Authority has agreed to add additional hours to compensate for that scope change. In that case a Change Order will be initiated and the Capital Purchase Order updated accordingly.

- i. Contract Hourly Rates - Contract Hourly Rates include overhead, facilities capital cost of money, profit margin, and direct expenses with the exception of Direct Reimbursable Expenses as outlined in Section 2.1.2(ii) below. The Consultant may negotiate job categories other than those listed in Exhibit “B” if required by specific work assignment.
- ii. Direct Reimbursable Expenses – Direct Reimbursable expenses consist of actual expenditures made by the Consultant in the interest of the project.
  - a. Direct expenses included in Contract Hourly rates are materials and supplies, postage, shipping, and deliver, automobile, boat, and equipment rental, telephone, reproduction. These expenses are not reimbursable by the Authority.
  - b. Travel expenses are not allowed in connection with the project.
  - c. The Consultant will determine the needs for maintaining long term storage for the Authority materials, files and plans and submit a cost-effective proposal for accomplishing the task. The final plan will be mutually agreed to by the Authority’s Senior Director, Engineering and Construction and the Consultant’s Project Principal. This will not include storage for records on ongoing efforts the project which is part of overhead.

- iii. Subcontracts for services to be provided by persons other than Consultant personnel - Compensation for subconsultant services shall be made on the same basis as the method described in this Section.
- iv. Subcontracting Administration – The Consultant will be allowed to charge a percentage of the subconsultant agreement to cover its administration and management costs associated with using the subconsultant. This charge will cover all Prime Consultant time in spent on arranging for the subcontracting work including such tasks as getting quotes, negotiations, contracting and administration and management of the subcontract and is in lieu of any direct salary charges. The amount will be 5% for all sub agreements. This administrative charge will also be deemed to cover all legal and insurance issues arising out of the use of the subconsultant. No direct time will be charged to the Authority in the Consultant's process of contracting with subconsultants unless specifically allowed by the Authority's Senior Director, Engineering and Construction prior to the execution of a contract with any subconsultant. However, direct time may be charged by the Consultant for independent, specific technical review of subconsultant's work, if authorized by the Authority's staff.

**2.1.3** Payments made incrementally throughout the period of service for the Capital Purchase Order shall represent full compensation for all service(s) required to complete the work of the Capital Purchase Order. It shall include, but not necessarily be limited to, the Contract Hourly Rates, and direct non-salary (reimbursable) expenses, willingness to serve, and assumption of responsibilities without regard to the type or nature of service provided or actual cost incurred.

**2.1.4** It is hereby understood and agreed that the entire cost of developing the Project Proposal under Section 1.2.2 shall be borne by the Consultant, and shall not be a reimbursable cost under this Agreement.

**2.1.5** By its acceptance of a Capital Purchase Order, the Consultant certifies that it has a full and complete understanding of all requirements necessary to complete its responsibilities under the Agreement, and provides its assurance that it shall render fully and completely all services required to complete the Authority's Project as agreed. The Authority, based on this assurance, agrees to incrementally pay the Consultant as stated in Section 2.1.1, above. The sum of payments under the Capital Purchase Order shall not exceed the maximum amount stated thereon.

**2.1.6** The Consultant agrees that invoices for services rendered on the Capital Purchase Order shall be submitted no more frequently than monthly.

**2.1.7** Payments shall be made promptly by the Authority within twenty (20) business days after receipt of acceptable Consultant's invoice. The Authority agrees that if some items of the Consultant's invoice are disputed by the Authority, the Authority will pay those non-disputed items of the Consultant's invoice within thirty (30) business days after receipt. The Consultant agrees that each payment shall be made only in response to the Consultant's periodic invoice, in increments proportionate to the satisfactory completion of such services as generally determined acceptable by the Authority. The Consultant further agrees that the incremental charge for all services rendered shall be consistent with, and proportionate to, the current version of the Project



Work Plan approved by the Authority, and not be greater than the agreed upon amount included in the Capital Purchase Order.

## **2.2 Progress and Variance Reports.**

The Consultant shall submit with each invoice for payment on the Capital Purchase Order a Progress Report that factually summarizes all activities and accomplishments which occurred during the billing period, and a Variance Report that details and explains any difference between the cost budgeted for each task or item, and the current forecast for expenditures anticipated through completion. Any anticipated shortfall that would be created as a result of the periodic payment shall be documented and discussed with the Senior Director, Engineering and Construction. The shortfall situation shall either be justified or actions initiated to recover the original task or item budget to the satisfaction of the Engineering and Construction Department prior to payment. All Progress and Variance reporting shall be accomplished in a manner and form that is directly comparable to the Project Proposal developed by the Consultant under Section 1.2.2 for the invoiced Capital Purchase Order.

## **2.3 Additional Services.**

**2.3.1** The Consultant agrees to provide all services to this Agreement through its Jacksonville office location. Relocation, travel or subsistence expenses for special employees of the Consultant necessary to bring these individuals to Jacksonville to serve this Agreement, are reimbursable only at the sole discretion of the Authority and under special project conditions and as specifically authorized by the Capital Purchase Order.

**2.3.2** It is understood and agreed that, at any time or for any reason during the performance of services under the Agreement, it may be necessary for the Consultant to render service that is, or would be, outside the scope of the services that resulted in the original Capital Purchase Order. To the extent that this service is not consistent with the Scope of Services for the Capital Purchase Order, said service shall be considered Additional Service and is compensable as provided herein.

**2.3.3** The Consultant waives compensation under this Article unless the Consultant, prior to rendering the additional service and in writing, serves notice to the Authority identifying, specifically, which additional services are considered necessary, or if the change is requested by the Authority that the change would constitute an additional fee for said service, must be negotiated.

**2.3.4** No service for which an additional cost or fee will be charged by the Consultant, shall be furnished without the prior written authorization of the Authority. Such service, if any, shall be compensated for as an Additional Service on the basis of a Project Proposal developed for the specific service contemplated under the general provisions of Section 1.2.2.

**2.3.5** In the event a dispute arises as to whether services are necessary, the Authority's determination shall be a pre-condition to any further action by the Consultant.

**2.3.6** In the event that a dispute arises as to whether services are, in fact, Additional Services, the Consultant agrees to perform the services at the written direction of the Authority, and to subsequently resolve the dispute pursuant to Article 13.



## ARTICLE 3 - AUTHORITY’S RESPONSIBILITIES

### 3.1 Provision of Information.

The Authority shall provide information as to its general requirements for the Project.

### 3.2 Availability of Information.

The Authority shall assist the Consultant by placing at its disposal all available information pertinent to the Project, including previous reports and any other data relative to design and construction of the Project, provided however, that the Consultant shall be responsible for any analysis, interpretation, application or use of the information thereof by the Consultant in performing hereunder. While the Consultant may reasonably rely upon the accuracy, timeliness and completeness of the information provided by the Authority, the Consultant shall exercise good engineering judgment and due diligence in the use of this information. All information provided hereunder by the Authority will be made available at the Authority's main office, or at the appropriate location of the work.

### 3.3 Provision of Public Access.

The Authority shall provide access to, and make all provisions for the Consultant to enter upon public and private properties as required for the performance of services under this Agreement. The Consultant's activities under this Article shall be governed by Sections 471.027 and 472.029, Florida Statutes.

### 3.4 Security Implementation Procedure

JAXPORT’s rigid security standards include the Federal Transportation Worker Identification Credential (TWIC) program, which is administered by the Transportation Security Administration. The TWIC is required for unescorted access to all JAXPORT terminals. It is your responsibility as the Prime Contractor to ensure that all of your employees and sub-contract personnel working for your company have been properly screened and credentialed with the TWIC, and the JAXPORT Business Purpose Credential.

#### **Transportation Worker Identification Credential (TWIC)**

The TWIC is required for all Prime Contractor/Sub-Contractor employees working on the job site for this Contract. This credential is for all personnel requiring unescorted access to secure-restricted areas of Maritime Transportation Security Act (MTSA)-regulated facilities. TSA will issue a tamper-resistant “Smart Card” containing the person’s biometric (fingerprint template) to allow for a positive link between the card and the individual.

The fee for obtaining each TWIC® is \$125.25, and the credential is valid for five years. The pre-enrollment process can be initiated online at <https://universalenroll.dhs.gov/> or at an IdentoGo TSA’s Universal Enrollment Service Center.

#### **TWIC: Universal Enrollment Centers**

The Jacksonville Universal Enrollment Center is located at: 2121 Corporate Square Blvd. Building A, Suite 165, Jacksonville, FL 32216. The office hours are Monday-Friday: 09:00 AM –11:00AM / 12:00PM- 6:00 PM, For general information you can call the TWIC Call Center at 1-855-347-8371, Monday-Friday, 8 a.m. to 10 p.m. Eastern Time.

### **JAXPORT Business Purpose Credential**

In addition to the TWIC, JAXPORT requires a JAXPORT Business Purpose Credential to be issued and registered at JAXPORT's Access Control Center located at the 9620 Dave Rawls Blvd. Jacksonville Fl. 32226 (Brick Building next to the Main Gate concourse). Hours of operation are Monday-Friday 7:30AM-4:30PM. The JAXPORT Business Purpose Credential is issued at no cost but expires at the end of the contract provisions.

The JAXPORT prime contractor is responsible for sponsoring all sub-contractors for the JAXPORT Business Purpose Credential.

Federal Training Requirement: (33CFR 105.215) Maritime Security Awareness Training

**JAXPORT is a federally regulated facility under the Maritime Transportation Security Act of 2002 (MTSA) as codified under the US Code of Federal Regulation 33 CFR Chapter 1, Subchapter H Part 105.**

*33 CFR 105.215-Security training for all other facility personnel.* All other facility personnel, including contractors, whether part-time, full-time, temporary, or permanent, must have knowledge of Maritime security measures and relevant aspects of the TWIC program, through training or equivalent job experience.

To meet the requirements of 33 CFR 105.215; the Prime Contractor/Sub-Contractor employees and all support personnel: Engineers, Suppliers, Truck Drivers, Laborers, Delivery persons etc. (NO EXCEPTIONS) are required to attend JAXPORT's Maritime Security Training given every Wednesday (10am, 2pm & 5pm) at JAXPORT's Access Control Building. Contact the JAXPORT Access Control Center to arrange for the training. JAXPORT will work with Contractors to conduct timely Maritime Security Training classes for larger groups.

All Prime Contractor/Sub-Contractor employees working on the job site for JAXPORT are required to attend JAXPORT's 33 CFR 105.215 (Security/Safety Training for All Other Facility Personnel) class at a cost of \$35.00 per person. Arrangements can be made by calling JAXPORT Access Control Phone# (904) 357-3344.

### **TWIC Escort Provisions**

To ensure contractors can begin work after they receive a Notice to Proceed, JAXPORT will allow prime contractors to have dedicated employee TWIC Escort(s) to handle those contractor employees who have not yet received their TWIC. Escorted employees must have a TWIC receipt validated by Access Control to receive a temporary JAXPORT Business Purpose credential.

Contractor deliveries from Non-TWIC vendors may be escorted by JAXPORT approved Prime Contractor escorts. The prime contractor will be required to submit a request for TWIC Escort privileges to [accesscontrol@jaxport.com](mailto:accesscontrol@jaxport.com) . Once approved, the contractor's employee(s) will

attend a JAXPORT provided MTSA TWIC Escort Class in addition to the standard MTSA 33 CFR 105.215 Security Class at a combined cost of \$55.00. **These authorized individual(s) must have no collateral duties that will separate the escort from the escorted visitor while serving as escort.** Note - Limitations to the number of TWIC Escort authorizations will be set by the JAXPORT Public Safety Department.

Truck drivers, vendors, labor may not conduct escorts.

A Contractor authorized by JAXPORT to conduct an escort of a non-TWIC holder in a restricted area must have:

- Successfully completed MTSA 33 CFR 105.215 Security/ Escort Class at \$55.00
- Have a valid TWIC on their person
- Have an approved JAXPORT TWIC ESCORT credential on their person
- Have a tamper-resistant laminated government issued photo identification card on their person.

TWIC Escorts must complete the JAXPORT TWIC Escort Form daily before getting to the access gate. The form will be kept on file at the JAXPORT Security Operations Center (SOC).

The Prime Contractor assumes full liability for the escorted person(s) while on JAXPORT property. The person under escort must have a continuous side by side escort in a secure-restricted area. Federally (USCG / TSA) imposed fines and or consequential damages resulting from a failed TWIC Escort by the Prime or Sub-contractor will be the responsibility of the JAXPORT Prime Contractor regardless of whether it is a direct employee.

**Federal regulation definition: 33.CFR 101.105**

*Escorting means:* ensuring that the escorted individual is continuously accompanied while within a secure area in a manner sufficient to observe whether the escorted individual is engaged in activities other than those for which escorted access was granted. This may be accomplished via having side-by-side companion or monitoring, depending upon where the escorted individual will be granted access. Individuals without TWIC may not enter restricted areas without having an individual who holds a TWIC as a side-by-side companion.

### **JAXPORT TWIC ESCORTS**

JAXPORT may provide TWIC escorts at Tariff rate with advanced notice (Minimum 24 hours). After review of the Contractors operation; JAXPORT will decide the number of escorts required to meet the federal regulation ratios of TWIC escort per non-TWIC worker. This will be based on operational requirements.

JAXPORT TWIC Escort Tariff Fees are published in JAXPORT's Tariff Schedule. Current rates are: **Mon.-Fri. 7:00 a.m. until 6:00 p.m.** Subject to two hour minimum \$125.00 first two hours; \$125.00 each additional two-hour block thereafter.

**After 6:00 p.m. until 7:00 a.m. weekends, holidays** Subject to two hours minimum \$250.00; \$125.00 each additional two-hour block thereafter.

#### **Examples:**

1. One TWIC Escort for an 8-hour day is \$501.00 (= 4 TWIC Credentials)
2. One TWIC Escort for 1 5-day work week is \$2505.00 (= 20 TWIC Credentials)

**NOTE:**

- All persons entering JAXPORT under TWIC Escort are required to have a tamper-resistant laminated government issued photo identification card on their person. The Identification Card must meet the USCG MTSA standards of 33 CFR 101.515. (State issued paper temporary drivers licenses are not acceptable identification).
- Any violations of the JAXPORT USCG approved Facility Security Plans will result in a Security Violation Hearing and be subject to temporary or permanent denial of access onto JAXPORT Terminals or ability to TWIC Escort.

**Significant Designations on Terminals**

- The terms “secure area” and “restricted area” do not mean the same thing. A **secure area** is defined as “the area over which an Authority/operator has implemented security measures for access control.” A **restricted area** is defined as “the infrastructure or locations identified in an area, vessel or facility security assessment or by the operator that require limited access and a higher degree of security protection.”
- Entry through the main gates at Blount Island Terminal (BIT) constitutes entry into a secure area; tenant-controlled properties are designated as restricted areas per their individual FSPs.
- Entry into the main gates at Talleyrand Marine Terminal (TMT) and Mitsui/TraPac (MOL) Terminal constitutes entry into a restricted area.
- Entry into the Cruise Terminal provisions gate, crew gate or terminal doors constitutes entry into a restricted area.

**Escorts**

**Truck drivers, vendors, labor may not conduct escorts.** The only exception will be given to the ILA President, Vice President and Business Agent when escorting for purposes other than labor.

**Truck Drivers:** Truck drivers at the gate with no TWIC and/or no escort into a restricted area, will be turned around and will be assisted by security traffic control to safely park until such time as the escort arrives. Truck drivers are responsible for making contact with their approved escort; JAXPORT security is not responsible for arranging or providing escorts. Escort must assume written custody of the driver. For cargo trucks, escorts may be in a vehicle providing the escort is able to visually observe the escorted at all times. This policy DOES NOT apply to POVs.

**Contractors:** Contractors without a JAXPORT badge and TWIC to access the port will be under escort as defined in this policy.

**Contract Security (performing security duties):** Must have a JAXPORT credential and a TWIC badge and may not be escorted.

**Hired Escorts:** Hired escorts would be commercial companies providing escort services for tenants in restricted areas; they must be sponsored by a tenant and may be vetted and approved with additional training and an administrative fee.

**Vendors:** Vendors without a TWIC will be turned away unless they have a dedicated & approved TWIC escort.

**Visitors:** According to Florida State Law, visitors without JAXPORT credentials may only visit five times in a 90-day period; this policy will remain in effect. Visitors should be vetted at least 24-hours in advance and await escort at the gate where they are seeking access. **A person with a TWIC badge, but without a JAXPORT credential will be treated as a "5/90" visitor.**

**Vessel Crewmembers:** When a vessel visits a JAXPORT terminal, the vessel's crew commonly needs to work in the immediate vicinity of their vessel (handling lines, taking draft readings, etc.). Some vessel crew may not have a TWIC, or they may not be U.S. Merchant Mariners. Although the dock, pier, or platform the vessel is moored to, is defined as a restricted area. There is no requirement to escort any of the vessel crewmembers that do not have a TWIC while they work alongside their vessel. **The area of dock directly adjacent to the vessel and extending in shore 18 feet from the vessel shall be designated the Crewmember Confinement Area (CCA).**

Vessel crewmembers may be escorted by approved escorts provided they complete the *TWIC Escort form* and escort under no more than a 1 to 5 ratio (excluding labor, contractors, and vendors). Prior to and upon completion of the escort, they are to contact the JAXPORT SOC at 904.357.3360.

Vessels, in coordination with the calling facility, shall ensure all crewmembers do not access Restricted Areas without approved escort. Any crewmember found outside the Crew Confinement Area (CCA) without a TWIC or approved escort may be considered a security breach under the JAXPORT FSP.

Seamen Center workers, ship's agents, etc. who may pick up crewmembers outside the CCA must have TWIC Escort forms on hand and deliver them to the nearest facility gate once completed.

**New Hire Provision:** **If a new hire moves from a secured to a restricted access area, they require side-by-side escort by a TWIC holder at all times.** If an individual is a newly hired vessel or facility employee who has applied for but not yet received a TWIC, the Authority/operator may grant the individual accompanied access to secure areas of the vessel or facility. This accompanied access may be granted for a period of up to 30 consecutive calendar days from the date of TWIC enrollment, after notification through Homeport that the individual has passed the name-based check. Accompanied access may be extended for an additional 30 days by the local COTP if TSA has not yet issued the new hire's TWIC.

Company/tenant/operator is responsible for reporting and verifying new hires via Homeport.

This provision *may not* be used to grant temporary accompanied access to an individual being hired as a CSO, VSO, or FSO or any individual being hired to perform security as a primary duty.

## Rail Access

**Rail Access:** It is the Coast Guard's position that, due to the unique aspects of railroad operations that can impact security at MTSA facilities, all railroad crew servicing secure areas of a MTSA facility should possess a TWIC. The following applies at:

**Blount Island Marine Terminal:** CSX will contact JAXPORT SOC via e-mail in advance of train arrival on BIMT to report crew TWIC status; if a crewmember does not possess a TWIC, JAXPORT contract security will provide escort. At no time will JAXPORT contract security personnel board trains or cross train tracks.

**Talleyrand Marine Terminal:** All Railroad personnel entering TMT must be in possession of a TWIC.

Any violation of the JAXPORT TWIC rail policy will be treated as a security breach under the JAXPORT FSP.

### Additional Comments:

The following standards must be met for escorting in the restricted areas of JAXPORT:

1. Escorts must have in their possession a valid TWIC and a permanent JAXPORT credential.
2. Visitors must have a verified reason to enter the restricted area.
3. Side by side escort requirement must be continual and uninterrupted.
4. The person escorting must be able to immediately contact JAXPORT Security Operations Center at (904.357.3360), as indicated on TWIC Escort Form.
5. JAXPORT Security must be notified if the side by side escort has been compromised or the non-TWIC holder engages in unlawful or suspicious activity.
6. Non-TWIC holders will not be allowed to occupy a privately-owned vehicle (POV) without a JAXPORT authorized escort.
7. TWIC Escort Form indicates Facility and FSO responsible for the action of the escorted & employees.
8. TWIC Helpdesk: 1-866-347-8942

### 3.5 Review of Materials.

The Authority shall review all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the Consultant as a work product developed in response to the Capital Purchase Order. All reviews shall be completed and the results presented to the Consultant to the greatest extent practical within a reasonable time so as not to delay the services of the Consultant.



### **3.6 Authority's Representative.**

The Authority shall designate a person to act as the Authority's representative with respect to the work to be performed under this Agreement, and such person shall have complete authority to transmit instructions; receive information; interpret and define Authority's policies and decisions with respect to materials; equipment, elements and systems pertinent to the services covered by this Agreement, except where the Authority is required to act through its appointed Governing Board. Written authorization and directives issued by the Authority's representative shall be honored by the Consultant, so long as such authorizations and directives are consistent with the scope of services to be provided under the Agreement. It is understood and agreed that for the purpose of this Article, Kelsey Cox, Senior Director, Engineering and Construction or other representative(s) designated in writing by the Engineering and Construction Department shall represent the Authority for all matters pertaining to this Article.

## **ARTICLE 4 - TERMINATION OF THE AGREEMENT**

### **4.1 Termination for Cause.**

If the Consultant is adjudicated as bankrupt, or if they make a general assignment for the benefit of creditors, or if a receiver is appointed on account of their insolvency, or if they persistently or repeatedly refuse or fail to supply enough qualified personnel, if they fail to make proper payment to Subconsultants and Subconsultants, or disregard laws, ordinances, rules, regulations or orders of any public authority having jurisdiction or otherwise materially breaches any provision of this Agreement, the Authority may, after 5 days' written notice to the Consultant but without prejudice to any right or remedy, terminate the employment of Consultant and complete the Consultant's services hereunder through others. Termination shall be accomplished by written notice stating due cause, and shall be effective upon receipt. In such case, the Consultant shall be liable to the Authority for all damages and any and all additional costs and expenses occasioned to the Authority thereby.

### **4.2 Termination for Default.**

If through any cause within the reasonable control of the successful Consultant Firm, it shall fail to fulfill in a timely manner, or otherwise violate any of the covenants, agreements, or stipulations material to the Agreement, the Authority shall thereupon have the right to terminate the services then remaining to be performed by giving written notice to the successful Consultant Firm of such termination which shall become effective upon receipt by the successful Consultant Firm of the written termination notice.

In that event, the Authority shall compensate the successful Consultant Firm in accordance with the Agreement for all services performed by the Consultant Firm prior to termination, net of any costs incurred by the Authority as a consequence of the default. Notwithstanding the above, the successful Consultant Firm shall not be relieved of liability to the Authority for damages sustained by the Authority by virtue of any breach of the Agreement by the Consultant Firm, and the Authority may reasonably withhold payments to the successful Consultant Firm for the purposes of set off until such time as the exact amount of damages due to the Authority from the successful Consultant Firm is determined.



### 4.3 Termination for Convenience.

The Authority may, for its convenience, terminate the services then remaining to be performed at any time without cause by giving written notice to successful Consultant Firm of such termination, which shall become effective thirty (30) days following receipt by Consultant Firm of such notice. In that event, all finished or unfinished documents and other materials shall be properly delivered to the Authority. If the Agreement is terminated by the Authority as provided in this section, the Authority shall compensate the successful Consultant Firm in accordance with the Agreement for all services actually performed by the successful Consultant Firm and reasonable direct costs of successful Consultant Firm for assembling and delivering to the Authority all documents. No compensation shall be due to the successful Consultant Firm for any profits that the successful Consultant Firm expected to earn on the balance of the Agreement. Such payments shall be the total extent of the Authority’s liability to the successful Consultant Firm upon a termination as provided for in this section.

### 4.4 Receipt of Notice.

Date of receipt of termination notice shall be established either by Certified Mail Return Receipt or hand delivery with receipt, at the Authority's option.

### 4.5 Events upon Termination.

Upon termination of the Agreement under either Sections 4.1 or 4.2 the Consultant shall:

Immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the Authority all data, drawings, specifications, reports, estimates, summaries and all other information and materials including, but not limited to, that which may exist in electronic media format, as may have been developed and accumulated by the Consultant in performing this Agreement, completed or in progress.

Authority will have no liability to the Consultant for any cause whatsoever arising out of, or in connection with, termination including, but not limited to, lost profits, lost opportunities, resulting change in business condition, except as expressly stated within these Contract Documents

## ARTICLE 5 - ASSURANCES

### 5.1 Indemnification and Insurance.

**5.1.1** The Consultant and its subconsultants and subconsultants (individually or collectively referred to as the “Indemnifying Parties”), shall hold harmless, indemnify, and defend Authority and Authority’s officers, board members, employees, representatives and agents (individually or collectively referred to as the “Indemnified Parties”) from and against:

(a) General Tort Liability, including without limitation any and all claims, actions, losses, damages, injuries, liabilities, costs and expenses of whatsoever kind or nature (including, but not by way of limitation, attorney’s fees and court costs) arising out of injury (whether mental or corporeal) to persons (including death) or damage to property, arising out of or

incidental to the Indemnifying Parties' negligent performance of the Contract or work performed hereunder; and

(b) Environmental Liability, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs of cleanup, containment or other remediation, and all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees), arising from or in connection with (a) the Indemnifying Parties' actions or activities under the Contract that result in a violation of any environmental law, ordinance, rule or regulation or that leads to an environmental claim or citation or to damages due to the Indemnifying Parties' negligent activities, (b) any environmental, health and safety liabilities arising out of or relating to the negligent operation or other activities performed in connection with the Contract by the Indemnifying Parties at any time on or prior to the effective date of the Contract, or (c) any bodily injury (including illness, disability and death, regardless of when any such bodily injury occurred, was incurred or manifested itself), personal injury, property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real property) or other damage of or to any person in any way arising from or allegedly arising from any hazardous activity conducted by the Indemnifying Parties. Authority will be entitled to control any remedial action and any legal proceeding relating to an environmental claim; and

(c) Intellectual Property Liability, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees), arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services, constitutes an infringement of any copyright, patent, trade secret or any other intellectual property right and will pay all costs (including, but not limited to attorney's fees and court costs), damages, charges and expenses charged to the Indemnified Parties by reason thereof. If in any suit or proceeding, the Services, or any product generated by the Services, is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall, immediately, make every reasonable effort to secure for the Indemnified Parties a license, authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to Authority, so that the Service or product is non-infringing; and

(d) Violation of Laws Liability, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees) arising from or based upon the violation of any federal, state, or municipal laws, statutes, resolutions, rules or regulations, by the Indemnifying Parties or those under their control; and

(e) Liability from Breach of Representations, Warranties and Obligations, including without limitation, any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities and expenses (including all costs for investigation and defense thereof including, but not limited to, court costs, reasonable expert witness fees and attorney's fees) which may be incurred by, charged to or recovered from any of the foregoing, arising directly or indirectly out of (a) any breach of any representation or warranty made by the Indemnifying

Parties in connection with the Contract or in any certificate, document, writing or other instrument delivered by the Indemnifying Party, or (b) any breach of any covenant or obligation of the Indemnifying Parties set forth in the Agreement or any other certificate, document, writing or other instrument delivered by the Indemnifying Parties pursuant to the Agreement.

The indemnifications in this Section 5.1.1 are separate and apart from, and are in no way limited by, any insurance provided pursuant to the Agreement or otherwise. This Section 5.1.1 shall survive the expiration or termination of the Agreement. To the extent an Indemnified Party exercises its rights under this Section 5.1.1, the Indemnified Party will (1) provide reasonable notice to Authority of the applicable claim or liability, and (2) allow Authority to participate in the litigation of such claim or liability (at Authority's expense) to protect its interests. Each party will cooperate in the investigation, defense and settlement of claims and liabilities that are subject to indemnification hereunder, and each party will obtain the prior written approval of the other Party before entering into any settlement of such claim or liability, which consent shall not be unreasonably withheld, delayed or conditioned.

**5.1.2** Without limiting any of the other obligations or liabilities of the Consultant, the Consultant shall, at its own expense provide and maintain in force, until all of its services to be performed under this Agreement, have been completed and accepted by the Authority (or for such duration as is otherwise specified hereinafter), Workers' Compensation/Employers' Liability, Commercial General Liability, Business Automobile Liability and Professional Liability Insurance conforming to the minimum requirements set forth below. Such policies shall be issued by companies either a) Holding valid and subsisting certificates of authority issued to the companies by the Department of Insurance of the State of Florida, and that have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A. M. Best Company, or b) with respect only to Workers' Compensation/Employers' Liability Coverage authorized as a group self-insurer by Florida Statutes 440.57.

**5.1.3 Workers' Compensation/Employers' Liability.**

**5.1.3.1** The Consultant's insurance shall cover the Consultant for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Longshoreman's and Harbor Workers' Compensation Act, Federal Employers' Liability Act and any other applicable Federal or State laws.

**5.1.3.2** Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy. The minimum amount of coverage for that coverage customarily insured under Part Two of the standard Workers' Compensation Policy (inclusive of any amounts provided by an umbrella or excess policy) shall be:

- \$100,000 (Each Accident)
- \$500,000 (Disease-Policy Limit)
- \$100,000 (Disease-Each Employee)

#### 5.1.4 Commercial General Liability.

5.1.4.1 The Consultant's insurance shall cover the Consultant for those sources of liability which would be covered by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C. Medical payments and the elimination of coverage for Fire Damage Legal Liability and the attachment of the Engineers, Architects or Surveyors' Professional Liability Exclusion (ISO Form CG 22 43).

5.1.4.2 The minimum limits to be maintained by the Consultant (inclusive of any amounts provided by an umbrella or excess policy) shall be the following amounts:

<b>LIMITS</b>	
<b>General Aggregate</b>	<b>\$2,000,000</b>
<b>Products/Completed Operations Aggregate</b>	<b>\$1,000,000</b>
<b>Personal and Advertising Injury Limit Each Occurrence</b>	<b>\$1,000,000</b>
<b>Bodily Injury and Property Damage Each Occurrence</b>	<b>\$1,000,000</b>

5.1.4.3 The Consultant shall continue to maintain Products/Completed Operations coverage for a period of three (3) years after the Agreement completion date.

5.1.4.4 The insurance must specifically include the Authority, the members of its Governing Body and its officers, officials, and employees as Additional Insured, with respect to liability arising out of services performed in connection with this Agreement.

#### 5.1.5 Business Auto Policy.

5.1.5.1 The Consultant's insurance shall cover the Consultant for those sources of liability which would be covered by Part IV of the latest occurrence edition of the standard Business Auto Policy (ISO Form CA 00 01), including coverage for liability contractually assumed, as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned, and hired autos.

5.1.5.2 The minimum limits to be maintained by the Consultant (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per accident combined single limit for Bodily Injury Liability and Property Damage Liability.

#### 5.1.6 Professional Liability.

5.1.6.1 The Consultant's insurance shall be on a form acceptable to the Authority, and shall cover the Consultant for those sources of liability arising out of the rendering or failure to render

professional services in the performance of this Agreement, including any hold harmless and/or indemnification agreement.

**5.1.6.2** The minimum limits to be maintained by the Consultant (inclusive of any amounts provided by an umbrella or excess policy) shall be \$3,000,000 each occurrence, and in the aggregate.

**5.1.6.3** The Consultant shall provide and maintain such professional liability insurance from the inception of its services, and until at least three (3) years after completion of all services required under this Agreement. Prior to commencement of services, the Proposer / Consultant shall provide to Authority a certificate or certificates of insurance, signed by an authorized representative of the insurer(s) evidencing the insurance coverage specified in the foregoing Articles and Sections. The required certificates shall not only name the types of policies provided, but shall also refer specifically to this Agreement and Article, and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is provided as required by such paragraphs of this Agreement.

**5.1.7** Prior to commencement of services, the Consultant shall provide to the Authority a certificate or certificates of insurance, signed by an authorized representative of the insurer(s) evidencing the insurance coverage specified in the foregoing Articles and Sections. The required certificates shall not only name the types of policies provided, but shall also refer specifically to this Agreement and Article, and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is provided as required by such paragraphs of this Agreement. The required certificates shall contain a provision that the Authority shall be given not less than 30 days' written notice prior to cancellation or restriction of coverage.

**5.1.8** The required certificates shall contain a provision that the Authority shall be given not less than 30 days' written notice prior to cancellation or restriction of coverage. The required policies shall contain a provision that the Authority shall be given not less than 30 days' written notice prior to cancellation or restriction of coverage. If the initial insurance policies required by this Agreement expire prior to the termination of this Agreement, renewal certificates of insurance or policies shall be furnished 30 days prior to the date of their expiration.

**5.1.9** JAXPORT reserves the right to require additional insurance coverage based on individual project values or specific project requirements.

## **5.2 Access to Consultant's Records.**

The Consultant agrees that the Authority shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Agreement for the purpose of making audit, examination, excerpts, transcriptions or copies, and that all required records, as stated above, will be maintained for five (5) years after the Authority makes final payment and all other matters are closed. If the Consultant fails to provide the required documentation under the Authority's request then the consultant will be charged a penalty for such failure and any costs incurred by the Authority to reproduce such documents will be reimbursed by the Consultant. The Consultant further agrees that it will provide the necessary facilities and personnel to assist with the audit, examination, excerpts, transcriptions or copies for the normal and customary cost of the assistance requested.



### **5.3 Ownership of Drawings and Other Data.**

**5.3.1** The Consultant agrees that all designs, drawings, specifications, notes and any other work developed in the performance of this Agreement, including that which may exist in electronic media format, shall be and remain the sole property of the Authority. The Consultant further agrees that this documentation may be used on any other work of the Authority, without additional compensation to the Consultant. With respect thereto, the Consultant agrees not to assert any rights and shall not establish any claim under the design patent or copyright laws. Any reuse of such documents without written verification or adaptation by the Consultant for the specific purpose intended will be at the Authority's sole risk and without liability or legal exposure to Consultant.

**5.3.2** To the extent that any design, drawing, specification, note and other work developed in support of the Project ("Work") is by operation of law considered to be owned by Consultant, Consultant hereby assigns any and all of its Authority ship interest in the Work to Authority and hereby agrees to do whatever is necessary and legally required in order to effectuate such assignment to Authority.

**5.3.3** At the completion of the Project, the Consultant shall transmit to the Authority, copies of all designs, drawings, specifications, notes and other work developed in support of the Project. As-built drawings are to be thoroughly reviewed by the Consultant for accuracy before being delivered to the Authority. One copy of all such data shall be delivered in a reproducible format; both print (size/format to be determined by the Authority) and electronic CAD files.

**5.3.4** Consultant, for a period of five (5) years after completion of the Project, agrees to furnish and provide access to all retained materials on the request of the Authority. Unless otherwise provided in the Agreement, the Consultant shall have the right to retain copies of all such materials beyond such period.

### **5.4 Design Limitations.**

#### **5.4.1 Requirements for Competitive Bids.**

A major objective of all design services provided by the Consultant under this Agreement shall include the award of a construction contract to the lowest cost responsive bidder, based on reasonably competitive bids. Any requirement or condition of the Consultant-prepared bid documents that would restrict reasonable competitiveness between bidders shall be specifically identified by the Consultant, and receive written approval of the Authority as condition precedent to the authorization to release plans and specifications for bidding and construction. Specifications involving "sole source" materials and equipment shall be similarly identified and also require Authority's written approval.

#### **5.4.2 Estimate Accuracy and Budget Overruns.**

**5.4.2.1** In order to protect the Authority from unanticipated cost overruns, the Consultant shall prepare estimates of construction cost beginning with the Project Proposal, at the 30 percent, 60 percent, and 90 percent completion of the design, and immediately prior to advertisement for bids based on final plans and specifications.

**5.4.2.2** Should the Consultant's initial or any subsequent estimate exceed funding currently budgeted and known to the Consultant, the Consultant shall, upon the written directive of the Authority, modify the design documents to bring the anticipated cost of the construction in-line with available funding.

**5.4.2.3** It is understood and agreed that the Authority shall be entitled to rely upon the Consultant's final estimate as a reasonably accurate indicator of the Project bids to be received. In the event, bids are received in a timely and reasonably competitive environment and the lowest responsive bidder exceeds the Consultant's final estimate by 10 percent or more, at the sole discretion of the Authority, the Consultant shall upon written direction of the Authority, modify the design documents for rebid in order to bring the Project cost in-line with available funding.

## **ARTICLE 6 - REQUIREMENT FOR PROFESSIONAL REGISTRATION**

The design of architectural, structural, mechanical, electrical, civil and other designed features of the work shall be accomplished or reviewed and approved by Registered Professional Architects or Engineers licensed to practice in the State of Florida, and the appropriate seal and signature shall be properly displayed on the construction documents. Support professionals such as Land Surveyors, Landscape Architects, Geologists and the like shall be similarly registered when they render professional recommendations and opinions.

## **ARTICLE 7 - COMPOSITION OF CONSULTANT**

The Consultant shall be one legal entity. Joint-Ventures are not acceptable.

## **ARTICLE 8 - SUSPENSION OF WORK**

### **8.1 Suspension for Convenience.**

The Authority may order the Consultant, in writing, to suspend all or any part of the work for such period of time as the Authority may determine to be appropriate for the convenience of the Authority. Compensation will be as outlined in Section 4.3 Termination for Convenience.

### **8.2 No Costs or Damages.**

In the event of a suspension or delay on the Project wherein the Consultant is being utilized, no costs or damages shall be recoverable by the Consultant. It is understood that the Consultant in connection with this Agreement shall only be compensated for direct costs as set forth in EXHIBIT "A" to this Agreement for work actually performed with the approval of the Authority, and the Consultant has waived any claim against the Authority for any extended overhead, inefficiency, or any other damage claim arising from a suspension or delay situation.

### **8.3 Delayed Project.**

In the event a suspension should occur and thereby cause work of the Consultant for the Project to extend beyond the expiration date of this Agreement, the parties may negotiate an equitable method for completion of the Project or the Authority may contract elsewhere for completion of the suspended or delayed Project.

## ARTICLE 9 - INTEREST AND BENEFITS

### 9.1 Interest of Consultant.

The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Consultant further covenants, that in the performance of this Agreement no person having any such interest shall be employed.

### 9.2 Interest of the Authority and Others.

No officer, member or employee of the Authority, and no member of its Governing Body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in the Agreement or the proceeds thereof.

### 9.3 Prohibition Against Contingency Fees.

(a) "The Consultant (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(b) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer, or registered land surveyor and mapper, who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes, as amended.

(c) Any architect, professional engineer, or registered surveyor and mapper, or any group, association, company, corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services shall, upon conviction in a state court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083., Florida Statutes, as amended.

(d) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or other



consideration contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes, as amended.

#### **9.4 Truth in Negotiation Certificate.**

The Consultant understands and agrees that execution of the RFQ shall be deemed to be a simultaneous execution of a Truth-In-Negotiation Certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 287.055, Florida Statutes, as amended. Pursuant to such certificate, the Firm hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete and current at the time of contracting. Further the Firm agrees that the compensation hereunder shall be adjusted to exclude any significant sums where the Authority determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

### **ARTICLE 10 - ASSIGNABILITY AND INDEPENDENCE**

#### **10.1 Assignment.**

The Agreement shall be binding upon the parties hereto and their respective successor and assigns, the Consultant shall not assign the Agreement without the Authority's express written consent. Any such assignment by Consultant's must contain a provision allowing the Authority to assert against any assignee, any and all defenses, setoffs or counterclaims which the Authority would be entitled to assert against Consultant.

#### **10.2 Non-exclusive Agreement.**

It is agreed that nothing in this Agreement obligates the Authority to commit all or any portion of its work toward service to be performed by the Consultant. Furthermore, the Authority reserves the right to award a portion, or all of its work, to other Consultant(s), if, in its sole judgment, such action would be in the best interest of the Authority.

#### **10.3 Independence.**

In the performance of the services of the Consultant under this Agreement, the Consultant shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint-venture or associate of the Authority. The Consultant shall be solely responsible for the means, methods, techniques, sequences and procedures utilized in the full performance of its services under this Agreement.

#### **10.4 Public Utilities and Permitting Authorities.**

Where privately, publicly, or cooperatively-owned utility companies require special arrangements in connection with the proposed Scope of Services, and when certain permits will be required for construction, the Consultant shall make the necessary contacts and confer with the responsible authorities regarding the respective requirements, as they affect the Scope of Service and apprise the Authority of the results of all such contacts. The Consultant shall make

no commitment with the utilities or permitting authorities which is, or may be perceived, as binding upon the Authority. The Authority shall have final authority regarding such special arrangements or permits and bear sole authority to execute all commitments.

## ARTICLE 11 – DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

### 11.1 DBE Policy and Obligation.

It is the policy of JAXPORT that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with FDOT funds under this contract. The DBE requirements of applicable federal and state laws and regulations apply to this contract. JAXPORT and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this contract. In this regard, all contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to perform contracts. JAXPORT's contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this contract.

### 11.2 DBE Utilization

The Florida Department of Transportation (FDOT) began its race neutral DBE program on January 1, 2000. Contract specific goals are not placed on State funded contracts; however, the FDOT has an overall 10.65% goal it must achieve. JAXPORT has adopted the FDOT's DBE Program goal. The DBE participation goal for this contract is 0%; however, DBE participation is strongly encouraged. Further information about the FDOT's DBE Program goal can be found at: [www.dot.state.fl.us/equalopportunityoffice/](http://www.dot.state.fl.us/equalopportunityoffice/).

JAXPORT will be monitoring potential or anticipated DBE utilization for contracts. When the low bidder executes the contract, information will be requested of the contractor's anticipated DBE participation for the project. While the utilization is not mandatory in order to be awarded the project, continuing utilization of DBE firms on contracts supports the success of Florida's Voluntary DBE Program, and supports contractors' Equal Employment Opportunity and DBE Affirmative Action Programs. FDOT's search engine for the business directory can be found at: <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>

Contract Assurance: The Consultant, Subrecipient, or subconsultant shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Department-assisted contracts. Failure of the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as JAXPORT deems appropriate, which may include, but is not limited to, 18-009.

1. Withholding monthly progress payments
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the Contractor from future bidding as non-responsive

### 11.3 Records and Reports

Consultants are required to provide the following information to JAXPORT’s Procurement Services SEB Programs Coordinator for verification.

**1. Anticipated DBE Participation Statement (Form No. DBE-1)**

The “Anticipated DBE Participation Statement” shall be completed and submitted by the Contractor at the pre-construction conference. The Statement must only include companies certified as a DBE. The Statement can and should be updated when additions or deletions are made through the life of the contract. This will not become a mandatory part of the contract. It will assist JAXPORT and FDOT in tracking planned or estimated DBE participation.

**The Contractor must submit the Statement to:**

JAXPORT Procurement Services  
SEB Programs Coordinator  
2831 Talleyrand Avenue  
Jacksonville, Florida 32206  
Office Number: (904) 357-3003  
Fax Number: (904) 357-3077

JAXPORT will review and approve the completed form and send the Statement to the District Administrator or designee who will forward the information to the Department’s Equal Opportunity Office at the following address:

Florida Department of Transportation  
Equal Opportunity Office  
605 Suwannee Street. MS-65  
Tallahassee, Florida 32399-0450  
Fax Number: (850) 414-4879

**2. Instructions for Reporting Actual Payments**

JAXPORT is required to report data on actual payments, minority status, and the type of work of all Subcontractors, Subconsultants, and major Suppliers. Each month the JAXPORT must report actual payments (including retainage) to all DBE Subcontractors, Subconsultants, and Suppliers. Payments to all non-DBE Subcontractors and Subconsultants can be reported either monthly or at the end of the project. Local Agency may submit this information to the District Administrator or designee manually or electronically in an Excel spreadsheet. Subsequently, Prime Contractors are required to report payments made to DBE Subcontractors manually or electronically to JAXPORT’s SEB Programs Coordinator.

**RESOURCES**

**Florida Department of Transportation  
Equal Opportunity Office**

<http://www.dot.state.fl.us/equalopportunityoffice/>

**49 CFR Part 26**

<https://www.civilrights.dot.gov/page/dbe-library>

**Disadvantaged Business Enterprise Directory**

<https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>

**ARTICLE 12 - NON-DISCRIMINATION****12.1 General.**

With regard to the work performed by the Consultant after award and prior to completion of the contract work, the Consultant shall not discriminate on the grounds of race, ethnicity, religion, gender or national origin, in the selection and retention of Subconsultants. Consultant shall comply with the provisions of Presidential Executive Order 11246, as amended, and with all rules and regulations implementing that Executive Order. Such provisions, rules, and regulations are incorporated herein by reference as set out in their entirety. Consultant shall not participate either directly or indirectly in discrimination. Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract.

**12.2 Information Reports.**

Consultant shall provide all information and reports required by the local and State regulations or orders and instructions issued pursuant thereto, and shall permit access to the Consultant's books, records, accounts, or other sources of information and its facilities as may be determined by the Authority to be pertinent to ascertain compliance with such regulations, orders and instructions.

Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the Authority, as appropriate, and shall set forth what efforts it has made to obtain the information.

**12.3 Sanctions for Non-compliance.**

In the event of the Consultant's non-compliance with the non-discrimination provisions of this Agreement, the Authority may impose such sanctions as it may determine to be appropriate including, but not limited to, cancellation, termination or suspension of the Agreement in whole or in part.

**12.4 Discriminatory Vendor List.**

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

**12.5 Incorporation of Provisions.**

Consultant shall include the provisions of Articles 12.1 through 12.5 in every subcontract, unless exempt by the regulations, orders or instructions issued pursuant thereto. Consultant shall take such action with respect to any subcontract as the Authority may direct, as a means of enforcing such provisions, including actions for non-compliance.

## **ARTICLE 13 - BREACHES AND DISPUTE**

**13.1** Disputes – Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the Authority (the "Authorized Representative"). This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Consultant Firm mails or otherwise furnishes a written appeal to the authorized representative of the Authority. In connection with any such appeal, the Consultant Firm shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Authorized Representative shall be binding upon the Consultant Firm and the Consultant Firm shall abide by the decision.

**13.1.1** Performance During Dispute – Unless otherwise directed by the Authority, Consultant Firm shall continue performance under this Contract while matters in dispute are being resolved.

**13.1.2** Claims for Damages – Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**13.1.3** Remedies – Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Authority and the Consultant Firm arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agrees, or in court of competent jurisdiction within the Authority in which the Authority is located.

**13.1.4** Rights and Remedies – 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. No action or failure to act by the Authority, (Architect) or Consultant Firm shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **13.2 Party Representation.**

It is understood and agreed that for the purpose of this Section, the Chief Executive Officer of the Jacksonville Port Authority or his designee shall represent the Authority in all matters pertaining to this Article, and shall have the authority to bind the Authority, subject to review and approval by the Authority's Governing Board. It is further understood and agreed that James N. Marino, P.E., D.CE, or other representative(s) named in writing by the Consultant to act in its behalf shall represent the Consultant in all matters pertaining to this Article, and shall have the authority to bind the Consultant.

### 13.3 Legal Rights.

Nothing in this Agreement shall be construed as denying either the Authority or Consultant the right to seek judicial relief or from pursuing any other appropriate legal remedy, subject to the above notice requirement.

## ARTICLE 14 - GOVERNING LAW AND NOTICES

### 14.1 Governing Law.

The rights, obligations and remedies of the parties as specified under the Contract shall be interpreted and governed in all aspects by the laws of the State of Florida. Venue for litigation of the Contract shall be exclusively in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

### 14.2 Notices.

Written notices, including legal service of process during the term of this Agreement and for the period of any applicable Statute of Limitation thereafter, shall be deemed to have been duly served, if sent either by certified mail or by facsimile and ordinary mail to the following named individuals as authorized representatives of the Authority and Consultant.

**FOR: JACKSONVILLE PORT AUTHORITY**  
**Kelsey Cox, Senior Director, Engineering and Construction**  
**Post Office Box 3005**  
**Jacksonville, FL 32206-0005**  
**Telephone: (904)357-3082**

**FOR: CONSULTANT NAME**  
**Consultant POC**  
**Consultant Address**  
**Consultant City, State, Zip Code**  
**Telephone: Consultant Phone Number**

Any change in representative(s) of the Authority and/or Consultant authorized to receive notices or their respective addresses and facsimile numbers shall be made in writing as noted above.

## ARTICLE 15 - FORCE MAJEURE

Performance of this Agreement by both JAXPORT and the Consultant will be pursued with due diligence in all requirements hereof; however, neither JAXPORT nor the Consultant will be considered in default in the performance of its obligations under this Agreement to the extent that such performance is prevented or delayed by causes not within the control of either Party and not foreseeable or, if foreseeable cannot be avoided by the exercise of reasonable care, including, but not limited to, acts of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; riot; insurrection; inability to secure approval, validation or sale of bonds; inability to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; pandemics; endemics; fires; floods; strikes;



lockouts; or collective bargaining. Upon any delay resulting from such cause the time for performance of each Party hereunder (including the payment of monies if such event prevents payment) will be extended for a period necessary to overcome the effect of such delays.

In case of any delay or nonperformance caused by the above causes, the Party effected will promptly notify the other in writing of the nature, cause, date of commencement and the anticipated extent of such delay, and will indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be affected by that.

## **ARTICLE 16 - FINAL PAYMENT RELEASE**

Prior to final payment under this Agreement, or prior to settlement upon termination of this Agreement, and as a condition precedent thereto, the Consultant shall execute and deliver to the Authority a release of all contract claims against the Authority arising under or by virtue of this Agreement, except for those which are in the dispute resolution process, or are being adjudicated in court. The release of contract claims shall be of form and content acceptable to the Authority.

## **ARTICLE 17 - CONTACT WITH EXTERNAL AGENCIES**

### **17.1 Regulatory Agencies.**

The Consultant shall inform the Authority prior to its meeting with outside regulatory agencies concerning the Authority's Project subject to regulation. The Consultant shall inform the Engineering and Construction Department of the information to be discussed, and provide an opportunity for the Authority or the Authority's designee to attend the meeting.

### **17.2 Commitments.**

The Consultant shall not indicate any commitments by, or for the Authority, unless specifically authorized by the Authority.

### **17.3 Public Information.**

The Consultant shall refer any public informational media questions about the Authority's Project to the Public Relations Office of the Authority.

### **17.4 Sub-tier Notification.**

The Consultant is responsible for assuring that its employees, as well as any Subconsultants or Subconsultants, understand and adheres to the requirements of this Article.

## **ARTICLE 18 - ORDER OF PRECEDENCE**

In the event of any conflict between the provisions of this AGREEMENT and those of the Contract Documents, said conflict shall be resolved by giving precedence to the provisions of this Agreement and the Contract Documents in the following order: (1) amendments to this Agreement (2) this Agreement, (3) addenda to JAXPORT's RFQ AE-1935B, (4) JAXPORT's RFQ AE-1935B, and (5) Consultants SOQ.

**ARTICLE 19 - EXTENT OF AGREEMENT**

This Agreement represents the entire agreement between the Authority and the Consultant and supersedes all prior agreements, either oral or written. This Agreement may be amended only by written instrument specifically referring to this Agreement, and executed with the same formality as this Agreement.

**ARTICLE 20 - PROVISIONS BINDING**

Except as otherwise expressly provided, all provisions of this Agreement shall be binding upon, and shall insure to the benefit of the parties, their legal representatives, successors and assigns. The parties agree that they have had meaningful discussions and/or negotiation of the provisions, terms and conditions contained in this Agreement. Therefore, doubtful or ambiguous provisions, if any, contained in this Agreement shall not be construed against the party who physically prepared this Agreement. The rule commonly referred to as "Fortius Contra Proferentum" shall not be applied to this Agreement or any interpretation thereof.

*(The remainder of this page is purposely left blank.)*



IN WITNESS WHEREOF, the Authority and the Consultant have executed this Agreement as of the dates indicated below.

**JACKSONVILLE PORT AUTHORITY**

**CONSULTANT NAME**

By: \_\_\_\_\_  
Eric B. Green

By: \_\_\_\_\_

Chief Executive Officer  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

DRAFT

**EXHIBIT A  
TO  
CONSTRUCTION ENGINEERING INSPECTION SERVICES  
FOR JFRD FIRE STATION #48  
FOR THE  
JACKSONVILLE PORT AUTHORITY  
CONTRACT NO. AE-1935B**

1. **PROFESSIONAL ENGINEERING SERVICES**

Job Categories	Resource	Rate
See <u>Consultant Name</u> proposal dated <u>Proposal Date</u> “Hourly Rates and Task by Task Fee Summary” Exhibit B.		

2. The rates included in Exhibit B are for all work through completion in the manner and in conformance with the Implementation Plan authorized for this Agreement. These rates are considered to include all costs to the Authority such as direct personnel wages, employee benefits, overhead, profit, and professional fees as they pertain to the Project. No multiplier is to be applied to the specified rates.
3. Compensation for professional services at specified hourly rates include such routine expenses as local transportation within Duval County in connection with the Project; computer-based data processing analysis; reproductions of drawings and specifications for review purposes; postage, local communications and the like.
4. Reimbursable expenses shall mean the actual documented expenses of a non-salary related nature incurred directly or indirectly by principals or employees of Consultant, or its Subconsultants in specific connection with the services authorized to be rendered for the Project. Reimbursable expenses are considered those costs not already covered in Article 2, above, including but not limited to photographic services, significant printing and reproduction services, and items of similar nature.
5. Fees for utility permits shall either be paid directly by the Authority or reimbursed to the Consultant at cost.

**EXHIBIT B  
TO  
CONSTRUCTION ENGINEERING INSPECTION SERVICES  
FOR JFRD FIRE STATION #48  
FOR THE  
JACKSONVILLE PORT AUTHORITY  
CONTRACT NO. AE-1935B**

**CONSULTANT NAME PROPOSAL DATED PROPOSAL DATE**

DRAFT

**REQUIRED LIMITS OF INSURANCE**

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**Prior to commencing Work**, Contractor shall furnish Owner with Certificates of Insurance (COI), and copies of required Endorsements and Forms, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

**Additional Insured Endorsement** must be submitted with COI document.

Owner shall be included as an additional insured under the Commercial General Liability policy for on-going and completed operations.

**Primary & Non-Contributory Endorsement** must be submitted with COI document.

Contractors CGL coverage must be Primary and Non-Contributory.

**Waiver of Subrogation** is required for Workers Compensation, CGL, and Auto Liability.

Waiver of Subrogation Form must be submitted with COI document.

**1. WORKERS' COMPENSATION/EMPLOYERS' LIABILITY**

Part One - There shall be no maximum limit (other than as limited by the applicable statute) for liability imposed by the Florida Workers' Compensation Act, or any other coverage required by the contract documents, which are customarily insured under Part One of the standard Workers' Compensation Policy.

Part Two - The minimum amount of coverage required by the contract documents which are customarily insured under Part Two of the standard Workers' Compensation Policy shall be:

- \$100,000 (Each Accident)
- \$500,000 (Disease-Policy Limit)
- \$100,000 (Disease-Each Employee)

**2. COMMERCIAL GENERAL LIABILITY**

Commercial General Liability Policy with the following minimum limits:

General Aggregate	\$2,000,000
Products Completed & On-going Operations Aggregate	\$1,000,000
Personal and Advertising Injury, Each Occurrence	\$1,000,000
Bodily injury and Property Damage (each occurrence)	\$1,000,000

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**REQUIRED LIMITS OF INSURANCE**

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**3. BUSINESS AUTO POLICY**

Limit no less than \$1,000,000 per accident for bodily injury and property damage.

- Covering any auto (code 1)
- If contractor has no owned autos, hired (Code 8)
- Non-owned autos (Code 9)

Failure of Contractor to maintain the required insurance shall constitute a default under this Agreement and, at Owner's option, shall allow Owner to terminate this Agreement.

**4. UMBRELLA LIABILITY**

\$1,000,000 per Occurrence; \$2,000,000 Aggregate

Minimum underlying coverages shall include Commercial General Liability, Automobile liability and Contractors Pollution Liability.

**5. PROFESSIONAL LIABILITY**

The Proposer's / Consultant's insurance shall be on a form acceptable to JPA, and shall cover the Proposer / Consultant for those sources of liability arising out of the rendering or failure to render professional services in the performance of this Agreement, including any hold harmless and/or indemnification agreement.

The minimum limits to be maintained by the Proposer / shall be \$3,000,000 per occurrence or claim, and \$3,000,000 in the aggregate. The Proposer / Consultant shall provide and maintain such professional liability insurance from the inception of its services, and until at least three (3) years after completion of all services required under this Agreement. Prior to commencement of services, the Proposer / Consultant shall provide to JPA a certificate or certificates of insurance, signed by an authorized representative of the insurer(s) evidencing the insurance coverage specified in the foregoing Articles and Sections. The required certificates shall not only name the types of policies provided, but shall also refer specifically to this Agreement and Article, and to the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is provided as required by such paragraphs of this Agreement.

**Cross-Liability Coverage:** If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

**Sub-Contractor's Insurance:** Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified in this agreement. When requested by Owner, Contractor shall furnish to Owner copies of certificates of insurance evidencing coverage for each subcontractor.

## REQUIRED LIMITS OF INSURANCE

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**Failure of Contractor** to maintain the required insurance shall constitute a default under this Agreement and, at Owner's option, shall allow Owner to terminate this Agreement.

**Failure of Owner** to demand such certificate or other evidence of full compliance with these insurance requirements, or failure of Owner to identify a deficiency from evidence that is provided, shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

**No Representation of Coverage Adequacy:** By requiring the insurance as set out in this Agreement, Owner does not represent that coverage and limits will necessarily be adequate to protect Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor's liability under the indemnities provided to Owner in this Subcontract.

If the Contractor/Consultant maintains broader coverage and/or higher limits than the minimums shown above, the Owner requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor/consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Owner.

*(The remainder of this page is intentionally left blank)*

## ***How to Submit Your Bid Response in E-Builder***




After reviewing the bid package invitation, use the Response Form tab to submit your bid response.

### **To submit your proposal:**

1. Access the bid package using the "E-Builder Invitation."
2. Click the **Response Form** tab.
3. On the **Step 1: Bid Form** tab, enter your pricing on the bid form line items.

Ensure that you provide pricing at the level of detail required by the bid manager (if applicable). Some line items may be lump sum, and others may require quantities and unit prices.

- If there are areas that do not pertain to your trade, enter a zero (0) value in that line.
- The Summary box at the top of the page maintains a running total of your entries for reference.

4. Click  (Save). Ensure that your work is saved periodically.
5. *Optional:* To export the bid items to a spreadsheet that you can customize or that you can share with your team, click  (Download). After updating the spreadsheet, click  (Upload) to re-import it.
6. On the **STEP 2: Response Documents** tab, click **Attach Documents**, and upload any supporting document needed to support your bid.
7. On the **STEP 3: Additional Required Info** tab, complete any additional questions or qualification statements that have been established by the bid manager. If any addenda have been issued, you are required to acknowledge receipt of the addenda on this page before submitting your bid.
8. Review the entire Response Form and click **Submit**.
9. When prompted, enter your e-Builder portal password and click **Submit Bid**.

The date and time that you submitted your bid is stamped on your Response Form. You will also receive an email confirmation.

### **Recall your Bid Response** *(only if necessary)*


If you failed to submit all documents or see an error on a page **after submitting** your bid, you can make changes to your bid before the due date/time without any interaction from the bid manager. The bid manager has no record of your bid response until you click Submit again.

### To recall your bid response

1. On the **Response Form** tab, click **Recall Bid**.
2. Optionally provide a reason for your recall and then click **Yes, I am sure**.  
Your previous submission information is displayed on the Response Form tab.
3. Click **Submit** to resubmit your bid prior to the bid due date/time.



Additional Notes

- *After the bid due date/time has passed, the Submit button will be disabled. It is critical that you complete the entire process prior to the cut-off time. The system will not permit you to submit your proposal or bid after the deadline regardless of where you are in the process. As stated, the Submit button is systematically disabled promptly at the deadline and JAXPORT is unable to see anything you have uploaded prior to the bid due date/time. No late submissions will be permitted or accepted. Please plan accordingly.*
- If the bid manager adds or changes a bid item, or publishes an addendum, your bid will be set back to a Draft status. You will receive an email notification and will be required to reconfirm your bid and resubmit.
- When you need to step away from entering the quote, click  (Save). It is recommended that you save every 15 minutes. This will ensure that your changes are saved.
- If there are areas that do not pertain to your trade, enter a zero (0) value in that line item.
- If you have your qualifications in Word® or another program, copy and paste them into the qualifications.
- It is required that you acknowledge all the addenda, even if they do not pertain to your trade.
- It is recommended that you submit your quote at least 60 minutes before the due time so that you can rectify any errors. To submit the proposal, you must complete all the fields and acknowledge the addenda items.
- **Failure to submit all information requested will result in a proposal or bid being considered “non-responsive,” and therefore will be rejected.**

**ARTICLE V**  
**JAXPORT PROCUREMENT GOALS**  
**SMALL AND EMERGING BUSINESS (SBE)**  
**PARTICIPATION POLICY,**  
**GOALS, CONDITIONS AND INSTRUCTIONS**

**5.01 POLICY**

It is the official policy of the Jacksonville Port Authority (JAXPORT) to require the inclusion of firms owned and controlled by Small and Emerging Business Enterprises in contract awards and projects whenever feasible.

**The Authority has determined that the MANDATORY participation will be 100% SEB (JSEB/DBE/SBA/MBE/WBE) for this contract. This bid has been designated *only* for the competition of vendors in any of the categories listed below:**

**5.02 CERTIFICATION**

Jacksonville Small and Emerging Business Enterprise (JSEB): JSEB vendors must be COJ certified and included in the Directory prior to the date of the bid opening or have a pending application that is resolved prior to award.

Disadvantaged Business Enterprise (DBE): DBE means a small business concern that is at least 51 percent owned by one or more socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals that own the business. Firms desiring to participate as DBEs in this bid must be duly certified by the Florida Department of Transportation (FDOT) or a member of the Florida Unified Certification Program (FUCP) and listed in the FUCP DBE Directory of certified firms. JTA is the local certifying agency for the DBE Program.

Small Business Administration Certified Firms (SBA): Small Business companies as designated by the U.S Small Business Administration and listed in the Central Contractor Registration (CCR) on-line database. Firms must be active with assigned DUNS numbers.

Minority/Women Business Enterprise (MBE/WBE): A for-profit small business concern that performs a commercially useful function and is legitimately owned and controlled by minorities or women (as described by the Minority Business Development Agency of the Department of Commerce).

**5.03 SEB Agencies**

**City of Jacksonville**  
**Ed Ball Building**  
**214 North Hogan Street, Suite 800**  
**Jacksonville, Florida 32202**  
**Phone: (904) 255-8840**  
**Fax: (904) 255-8842**  
<http://cojapps.coj.net/jseb/>

**Jacksonville Transportation Authority**  
**Disadvantaged Business Enterprise Program**  
**100 N. Myrtle Avenue**  
**Jacksonville, Florida 32203**  
**(904) 598-8728**  
[www.jtafla.com](http://www.jtafla.com)

Florida Department of Transportation (FDOT)  
Equal Opportunity Office  
605 Suwannee Street MS-65  
Tallahassee, Florida 32399  
(850) 414-4747  
<http://www.fdot.gov/equalopportunity/>

US Small Business Administration  
North Florida District Office  
7825 Baymeadows Way, Suite 100-B  
Jacksonville, Florida 32256  
(904)443-1930  
[http://web.sba.gov/pro-net/search/dsp\\_dsbs.cfm](http://web.sba.gov/pro-net/search/dsp_dsbs.cfm)

Minority Business Development Agency  
Miami District Office  
51 Southwest, 1<sup>st</sup> Avenue  
Miami, Florida 33130  
(786) 315-0888  
[www.mbda.gov](http://www.mbda.gov)

#### **5:04 SEB Certified Vendor Obligation**

Bidders are required to submit a proof of current certification with the respective agencies at the time of bid opening. Vendors who do not meet this requirement will be considered non-responsive and ineligible for award. In addition, submission of a bid by a prospective bidder shall constitute full acceptance of all conditions outlined in this bid specification. Please note that in order to maintain the integrity of its SEB Program JAXPORT is requiring that the successful Bidder performs at least 100 percent (100%) of the total value of the work, failure to do so will constitute a breach of contract.

For further information concerning participation on this bid, please contact:

Michael McCoy, Coordinator  
Vendor Management & SEB Programs  
JAXPORT SEB Program  
2831 Talleyrand Avenue  
Jacksonville, Florida 32206  
Office Number: (904) 357-3003  
Fax Number: (904) 357-3077  
[Michael.McCoy@jaxport.com](mailto:Michael.McCoy@jaxport.com)

## JACKSONVILLE PORT AUTHORITY "Schedule of Subcontractor / Subconsultant Participation"

Name of Bidder: \_\_\_\_\_

Project Title: \_\_\_\_\_

BID Number: \_\_\_\_\_

TOTAL BASED BID AMOUNT: \_\_\_\_\_

**\*\*Please list all SEB Vendors first**

NAME SUB FIRM	ADDRESS OF FIRM	TYPE SUB (SEB)	TYPE OF WORK TO BE PERFORMED	TOTAL CONTRACT VALUE & \$\$ PERCENTAGE
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

CONSULTANT/SUBCONTRACTOR/SUPPLIER TOTAL VALUES		
Hispanic, Asian-American Participation Total Values:	\$	% of contract
African-American Participation Total Value:	\$	% of contract
Native-American Participation Total Value:	\$	% of contract
Woman Participation Total Value:	\$	% of contract
Other Socially and Economically Disadvantaged Individual Including JSEB/MBE/WBE/DBE/SBA Vendors	\$	% of contract

The undersigned will enter into a formal Agreement with the JSEB/DBE Suppliers/Consultants/Subcontractors identified herein for work listed in this scheduled conditioned upon execution of a contract with JAXPORT. Under penalties of perjury I declare that I have read the foregoing conditions and instructions and the facts are true to the best of my knowledge and beliefs.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Sworn to and subscribed before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

NOTARY PUBLIC STATE OF: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
PRINTED, TYPED OR STAMPED  
COMMISSIONED NAME OF NOTARY PUBLIC

**U.S DEPARTMENT OF DEFENSE  
OFFICE OF ECONOMIC ADJUSTMENT  
GRANT AWARD: HQ00052310057  
GENERAL OEA TERMS AND CONDITIONS**

**U. S. DEPARTMENT OF DEFENSE  
OFFICE OF ECONOMIC ADJUSTMENT  
GENERAL TERMS AND CONDITIONS  
October 2019**

**INTRODUCTION**

This award is governed by the following Office of Economic Adjustment (OEA) General Terms and Conditions. These general terms and conditions implement Office of Management and Budget (OMB) guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” published in the Code of Federal Regulations (CFR) at 2 CFR part 200 and implemented by the DoD at 2 CFR part 1103, “Interim Grants and Cooperative Agreements Implementation of Guidance in 2 CFR part 200” (79 FR 76047, December 19, 2014).

**APPLICABILITY**

These General Terms and Conditions apply to OEA grants and cooperative agreements with Institutions of Higher Education, Nonprofit organizations, States, and Local governments. Provisions of Chapter I, Subchapter C of Title 32, CFR, “DoD Grant and Agreement Regulations,” other than parts 21, 22, 32, 33, and 37, continue to be in effect and are incorporated herein by reference, with applicability as stated in those provisions.

**ORDER OF PRECEDENCE**

Any inconsistencies in the requirements of this award shall be resolved in the following order:

- A. Federal statutes
- B. Federal regulations
- C. 2 CFR part 200, as modified and supplemented by DoD's interim implementation found in 2 CFR part 1103
- D. Award-specific terms and conditions
- E. General Terms and Conditions
- F. Program-Specific Terms and Conditions.

All applicable Federal statutes and regulations are posted on OEA’s website at [www.oea.gov](http://www.oea.gov). OEA’s Federal award document is the Notice of Award (NOA), a 3-page form with numbered and labeled sections. These General Terms and Conditions will refer the Grantee to the applicable section.

In case of disagreement with any requirements of this award, the Grantee shall contact the Points of Contact listed in the NOA to resolve the issue. The Grantee shall not assess any costs to the award or accept any payments until the issue is resolved.

## **ARTICLES**

- A. Affirmation of Award**
- B. Grant Payments**
- C. Personnel**
- D. Salary Cap**
- E. Prior Written Approval**
- F. Overpayments**
- G. Grantee Contributions**
- H. Procurement**
- I. Reimbursement for Travel**
- J. Use of Consultants/Contractors**
- K. Contractor Deliverables**
- L. Intellectual Property**
- M. Performance Monitoring and Reporting**
- N. Financial Monitoring and Reporting**
- O. Prohibited Activities**
- P. Audits**
- Q. Reporting Requirements for Subaward and Executive Compensation**
- R. Recipient Integrity and Performance Matters**
- S. Requirement to Post an Abstract**
- T. Prohibition on Using FY 15 Funds under Grants with Entities that Require Certain Internal Confidentiality Agreements**
- U. Compliance**
- V. Interest**



## A. Affirmation of Award

Grantees are required to submit a countersigned Notice of Award (NOA) to OEA. First, review the Terms and Conditions, and other requirements of this award. Next, the Authorized Representative must provide a wet signature and date in NOA Section 22. *Affirmation of Award*. The final step is to create a pdf file, and upload the countersigned document in its entirety within your OEA Grants Portal account. You may obtain assistance from the *Federal Agency Points-of-Contact* listed in NOA Section 19.

Failure to adhere to this requirement will result in deobligation of funds being delayed as well as the inability to process any payments. OEA is not responsible for delays due to the unsuccessful submission of the countersigned Notice of Award.

## B. Grant Payments

Grantees should refer to NOA Section 5 to determine the *Federal Award Date*. You will utilize the applicable grant payment guidance dependent upon the Federal Award Date occurring **prior to or after 6/1/2019**.

- **Grant Payments Guidance for Federal Award Date AFTER 6/1/2019**

Grant payments will be processed through the U.S. Department of Health and Human Services Payment Management System (PMS).

Due to the requirements of *Chapter 19 of Volume 10 of the Department of Defense (DoD) Financial Management Regulation, 7000.14-R*, **Grantees are required to submit Standard Form (SF)-270 (non-construction) SF-271 (construction) to the Grantor AND submit a payment request within PMS for all payments.** Any funds paid to the Grantee in excess of the approved payment amount will constitute a debt to DoD.

**CURRENT PMS USERS** - If your organization currently uses PMS for a grant awarded by another Federal Agency, a new PMS account number will be created for this Grant. Everyone that currently has access to PMS will need to submit an Update Privileges request in PMS to gain access to this account.

**NEW PMS USERS** - If your organization does not currently use PMS, then staff will need to gain access to PMS and enter banking information. Access can be requested at <https://pms.psc.gov>. Instructions for requesting access and entering banking details can be found on the same website under the "Grant Recipients" tab. In addition, your organization will need to complete PMS training. For a list of training dates, please go to <https://pms.psc.gov/training/grant-recipient-training.html>.

**SF-270 or SF-271 Preparation:**

Grantees must submit current OMB-approved Standard Forms to request payment. First, review NOA Section 3 to determine the *Type of Award*. Then utilize the appropriate set of directions to prepare your payment request.

**Non-Construction**

Grantees with non-construction grants should complete and sign Standard Form (SF) 270, “Request for Advance or Reimbursement.” Refer to OEA’s presentation “Grant Payment Process: Successfully using the SF-270 to receive timely payments” for detailed instructions. SF-270, Section 7 must include the *Federal Award Identification Number* provided in the NOA’s Section 10.

Click on the icon to open:



SF270-V1.0.pdf



OEA SF-270  
Instructions Spring ;

**Construction**

Grantees with construction grants should complete Standard Form (SF) 271, “Outlay Report and Request for Reimbursement for Construction Programs.” The instructions for this form are on the 2nd page of the SF-271 .pdf file. The Adobe Acrobat Pro form is “fillable.” This will allow you to type into the form and as data is entered, the form will autofill and calculate sums. SF-271, Section 7 must include the *Federal Award Identification Number* provided in the NOA’s Section 10. Upon completion print, sign, and date the form. The signed form should be scanned and saved as a .pdf file.

Click on the icon to open:



SF271-V1.0.pdf

**SF-270 or SF-271 Submission:**

Once the correct form is completed, signed, and scanned as a .pdf, the Grantee should attach it to an email and submit it via email to: [oea.ncr.oea.mbx.oea-pms@mail.mil](mailto:oea.ncr.oea.mbx.oea-pms@mail.mil). You will receive an automated email acknowledging receipt of your payment request.

**PMS Payment Submission:**

Grantees must complete a payment request within PMS. You may locate these instructions at: <https://pms.psc.gov/pms-user-guide/accessing-pms.html>

**Inquiries:**

After submission, all inquiries into the status of a grant payment should be directed to the OEA Project Manager. Allow seven (7) calendar days after submission of a payment before following up with your Project Manager.

**Disclaimer:**

Due to the requirements of *Chapter 19 of Volume 10 of the Department of Defense (DoD) Financial Management Regulation, 7000.14-R*, Grantees must obtain Grantor approval through the successful submission and approval of SF-270 or SF-271 prior to receiving payment. Any funds paid to the Grantee in excess of the approved payment amount will constitute a debt to DoD.

The Grantor will reject all payment requests submitted without the Federal Award Identification Number.

- **Grant Payments Guidance for Federal Award Date issued PRIOR to 6/1/2019**

Grantees must submit current OMB-approved Standard Forms to request payment. First, review NOA Section 3 to determine the *Type of Award*. After this determination, utilize the appropriate set of directions to prepare your payment request.

**Non-Construction:**

Grantees with non-construction grants should complete and sign Standard Form (SF) 270, “Request for Advance or Reimbursement.” Refer to OEA’s presentation “Grant Payment Process: Successfully using the SF-270 to receive timely payments” for detailed instructions.

Click on the icon to open:



SF270-V1.0.pdf



OEA SF-270  
Instructions Spring ;

**Construction:**

Grantees with construction grants should complete Standard Form (SF) 271, “Outlay Report and Request for Reimbursement for Construction Programs.” The instructions for this form are on the 2nd page of the SF-271 .pdf file. The Adobe Acrobat Pro form is “fillable.” This will allow you to type into the form and as data is entered, the form will autofill and calculate sums. Upon completion print, sign, and date the form. The signed form should be scanned and saved as a .pdf file.

Click on the icon to open



SF271-V1.0.pdf

**Submission:**

Once the correct form is completed, signed, and scanned as a .pdf, the Grantee should attach it to an email and submit it via email to:

[osd.ncr.odam.mbx.oea-payments@mail.mil](mailto:osd.ncr.odam.mbx.oea-payments@mail.mil)

**Inquiries:**

After submission, all inquiries into the status of a grant payment should be directed to the OEA Project Manager. Generally grantees are paid within 10 business days after submission to Defense Finance and Accounting Service (DFAS). We recommend you allow 10 business days after submission of a payment before following up with your Project Manager.

**Disclaimer:**

All payments shall be made by electronic fund transfers to the bank account registered in System for Award Management (SAM) at <https://www.sam.gov/portal/SAM/>. The Grantee agrees to maintain its registration in SAM including information necessary to facilitate payment via Electronic Funds Transfer (EFT). Should a change in registry or other incident necessitate the payment to an account other than that maintained in SAM, it is the Grantee's responsibility to notify the Federal Agency Points-of Contact identified in Section 19 of the Notice of Award, and obtain a modification to this Grant reflecting the change. The Government shall not be held responsible for any misdirection or loss of payment which occurs as the result of a Grantee's failure to maintain correct/current EFT information within its SAM registration.

The Grantor will reject all payment requests submitted without the Federal Award Identification Number.

**C. Personnel**

The Grantor must approve or disapprove the selection of key personnel as identified in the application and/or this Agreement. Any new hires or changes in key personnel require prior written approval from the Grantor. Resumes, in sufficient detail to reveal the experience, education, and other general and specific qualifications for the position, must be submitted to the Grantor for its consent prior to approval of a candidate.

**D. Salary Cap**

Grantor participation in the salary rate for the highest paid position shall not be in excess of \$174,500, or a Tier I Senior Executive Service (SES) salary at the U.S. Department of Defense. Other salaries shall tier downward from this highest salary rate subject to the Grantor's review and determination of whether the proposed salary (ies) is (are) allowable, allocable, and reasonable.

**E. Prior Written Approval**

Any changes in the project/program described in the application to include those identified below require prior written approval from OEA initiated through an amendment request from the Grantee:

1. Changes in the specific activities described in the application.

2. Changes in key personnel as specified in the application and/or this agreement.
3. Changes in the scope of work contained in any solicitation and/or request for proposals.
4. Need for additional Federal funds or changes in the non-Federal match.
5. Need for decrease in Federal funds or changes in the non-Federal match.
6. Budget reallocations that exceed 10 percent of the total budget among approved direct cost categories or are transferred to new budget line items.
7. Changes in indirect cost rates or recertification of expired indirect cost rates during the project period unless otherwise specified in this grant agreement.
8. Requests to purchase equipment with an estimated acquisition cost of more than \$5,000.
9. Requests to use Federal and/or non-Federal match funds for food and/or beverages in conjunction with meeting costs.
10. Reallocation of funds from the Contingencies budget category.

## **F. Overpayments**

### **(1) Overpayment Guidance for Federal Award Date prior to 6/1/2019**

Any Grant funds advanced or paid and not needed for approved grant purposes shall be reported immediately to the Grantor at: [osd.ncr.odam.mbx.oea-payments@mail.mil](mailto:osd.ncr.odam.mbx.oea-payments@mail.mil).

Grantees are to submit payments, including refunds or reimbursements, directly to the Grantor's Fiscal Agent, the Defense Finance and Accounting Service (DFAS) Cleveland through one of the following methods:

Via ACH with the following information:

Bank Name: Credit Gateway  
RTN: 051036706  
A/C: 220031

Via Wire with the following information:

Bank Name: US Treasury  
City: New York, NY  
Country: USA  
RTN: 021030004  
Swift: FRNYUS33FX1  
Account Name: DFAS-Cleveland

Account Number: 00008522

The Grantor will not accept any paper checks or returned funds directly. Grantor must be notified when funds have been returned to DFAS in order to direct those funds to the appropriate account.

## **(2) Overpayments Guidance for Federal Award Date after 6/1/2019**

The funds can be returned by check or at the bank via ACH or FedWire. The instructions are located at this website:

<https://pms.psc.gov/grant-recipients/returning-funds-interest.html>

The Payment Management System Program Support Center (PSC) prefers funds returned using Automated Clearing House (ACH) Direct Deposit (Remittance Express [REX]) or FedWire.

**IMPORTANT - PLEASE INCLUDE:**

- PMS Account Number (PAN). NOTE: The PAN is the same series of alpha-numeric characters used for payment request purposes (e.g.: C1234G1). This is important to indicate whom to credit the funding;
- PMS document number; and
- the reason for the return (e.g. Excess cash, funds not spent, interest, part interest part other, etc.)

Electronic returns include fields to include financial data. Please make use of these fields and include pertinent subaccount information if it applies.

**Domestic Automated Clearing House (ACH) Returns (Direct Deposit)**

Returning funds to PSC via Automated Clearing House (ACH) means you will most likely be returning funds to PSC in the manner in which they were received at your organization.

Below is PSC ACH account information:

- PSC ACH Routing Number is: 051036706
- PSC DFI Accounting Number: 303000
- Bank Name: Credit Gateway - ACH Receiver
- Location: St. Paul, MN

**International Automated Clearing House (ACH) Returns (Direct Deposit)**

For payments sent in U.S. Dollars (USD):

- Beneficiary Account: Federal Reserve Bank of New York/ITS (Can abbreviate: FRBNY/ITS)
- Bank: Citibank N.A. (New York)
- SWIFT Code: CITIUS33
- Account Number: 36838868
- Bank Address: 388 Greenwich Street, New York, NY 10013

- Payment Details (Line 70): Agency Name (abbreviated when possible) and Agency Locator Code (ALC)
- Agency POC: Lucas Thompson, (301) 492-5067

For a USD payment, the payment sender must include:

- Agency Locator Code (ALC): 75010501
- Name: US Department of Health and Human Services, PMS Account Number and Grant Sub-account Number in the Payment Details (Line 70) section of the SWIFT message.

This information must be in this section of the payment instructions or International Treasury Service (ITS) will not be able to identify for which agency the payment is intended and, ITS will return the payment as unidentified or unable to post. The receiving account is in the name of “Federal Reserve Bank of New York/ITS” and the payment originator should list that as the name on the beneficiary account.

#### FedWire Returns

For a FedWire return, return via a WIRE:

- FedWire Routing Number: 021030004
- Agency Location Code (ALC): 75010501
- Bank Name: Federal Reserve Bank
- Treas NYC/Funds Transfer Division
- Location: New York, NY

Note: If your organization initiates a wire, you are likely to incur a charge from your Financial Institution.

### **G. Grantee Contributions**

Contributions to this project by non-Grantor sources are expected to be paid out at the same general rate as Grant funds.

### **H. Procurement**

Effective June 20, 2018, Grantees are allowed to use the higher threshold of \$10,000 for micro-purchases and \$250,000 for simplified acquisitions in advance of revisions to the FAR at 48 C.F.R. Subpart 2.1 and the Uniform Guidance when exceptions are not prohibited by statute.

### **I. Reimbursement for Travel**

Reimbursement for travel (transportation, food, and lodging) in the performance of Grant activities shall be consistent with those normally allowed in like circumstances in the non-

Federally sponsored activities of the Grantee. Grantees may follow their own established rate but any travel allowance policies in excess of Federal Travel Regulation limits must receive prior approval from the Grantor.

#### **J. Use of Consultants/Contractors**

1. The scope of work contained in any solicitation and/or request for proposals may be reviewed and approved by OEA prior to issuance.
2. Procurement of consultant or contractor services shall be in accordance with all standards and procedures set forth in 2 CFR Part 200. The following terms are intended merely to highlight some of these standards and are, therefore, not inclusive.
  - a. All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition.
  - b. Formal advertising, with adequate purchase description, sealed bids, and public openings, shall not be required for small purchase procurements that are less than the simplified acquisition threshold, currently set as \$250,000 unless otherwise required by State or local law or regulation. If small purchase procedures are used, price or rate quotations shall be obtained. Micro-purchases of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold currently set at \$10,000 may be used in order to expedite the completion of lowest-dollar small purchase transactions.
  - c. The Grantee shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal Grant funds. Grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from a contractor or potential contractors. To the extent permissible by State or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by the Grantee's officers, employees, or agents, or by contractors.
  - d. The Grantee shall ensure that every consultant and every contractor it employs under the Grant complies with the terms of this Agreement as though the consultant or contractor were a party to this Agreement.
  - e. The Grantee is the responsible authority, without recourse to the Grantor, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of the Grant.



## **K. Contractor Deliverables**

A disclaimer statement will appear on the title page of any study prepared under this Grant. It will read:

“This study was prepared under contract with the, (The Grantee should insert its legal name into this space), with financial support from the Office of Economic Adjustment, Department of Defense. The content reflects the views of the (The Grantee should insert its legal name into this space) and does not necessarily reflect the views of the Office of Economic Adjustment.”

The contractor identification will appear on the title page of any study funded by this grant.

Any final study shall be submitted electronically. The document will be dated the month and year that it is submitted to the Grantor.

## **L. Intellectual Property**

Rights to inventions made under this grant are subject to Federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212. Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), Grantor retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. In order to receive invention submission guidance, the non-federal entity must notify the Grantor when first aware of any invention.

## **M. Performance Monitoring and Reporting**

The Grantee must submit performance reports in accordance with the due dates provided in NOA Section 21, *Award Performance Goals*. All performance reports will contain the following information about expenses incurred during the reporting period:

1. A comparison of actual accomplishments to the objectives established for the period.
2. The reasons for slippage if established objectives were not met.
3. Additional pertinent information when appropriate.
4. Grantees with non-construction awards will provide a computation of Federal funds expended for each SF-424A object class category approved for the award.
5. Grantees with construction awards will provide a computation of Federal funds spent in each SF-424C cost classification approved for the award.

6. The computation of costs will also include the amount of Grant funds on hand at the beginning and end, and non-Grantor share of contributions over the term.
7. The final performance report must contain a summary of activities for the entire Grant period. All required deliverables should be submitted with the final performance report.

## N. Financial Monitoring and Reporting

The Grantee must utilize SF-425, “Federal Financial Report,” to report all financial activity under the award. Submission of this requirement to the Grantor must remain in compliance with the due dates provided in NOA Section 21, *Award Performance Goals*.

When preparing the SF-425, the Grantee is advised to review Form Field Instructions, OMB Number: 4040-0014. You may click this icon to obtain the instructions:



SF425\_2\_0-V2.0-Inst  
ructions.pdf

As a supplement to these instructions, OEA offers supplemental guidance for some fields in SF-425 Section 10, “Federal Expenditures and Unobligated Balance.”

Field Number	Field Name	Supplemental Guidance
10a	Cash Receipts	Federal funds received
10b	Cash Disbursements	Actual costs incurred to perform work. Consists of direct and indirect costs. 10b will equal 10e
10c	Cash on Hand	Financial status of Federal funds
10d	Total Federal Funds	<i>Federal Grant Total Obligated on Award</i> in NOA Section 18
10e	Federal Share of Expenditures	All disbursements made. 10e will equal 10b.
10f	Federal Share of Unliquidated Obligations	Expenses have occurred, but invoices have not come in
10g	Total Federal Share (Sum)	How much has been spent?
10h	Unobligated Balance of Federal Funds	Amount of 10d minus 10g
10i	Total Recipient Share Required	<i>Non-Federal Grant Total</i> in NOA Section 18
10j	Recipient Share of Expenditures	Amount of non-Federal Grant Total met

The final SF 425, "Federal Financial Report," shall be submitted to the Grantor within 90 days after the end date of the Grant. Any Grant funds actually advanced and not needed for Grant purposes shall be reported immediately to the Grantor and returned to the Grantor's Fiscal Agent in accordance with the guidance provided in **Article F. Overpayments**, of this document.

The Grantor reserves the right to conduct on-site reviews and/or off-site desk reviews to confirm compliance with programmatic and administrative terms and conditions.

#### **O. Prohibited Activities**

1. **Duplication of Work:** The purpose and scope of work for which this Agreement is made shall not duplicate programs for which moneys have been received, are committed, or are applied for from other sources, public or private. Upon request of the Grantor, the Grantee shall submit full information about related programs that will be initiated within the Grant period.
2. **Other Funding Sources:** Grantor's funds budgeted or granted for this program shall not be used to replace any financial support previously provided or assured from any other source.
3. The Grantee is prohibited from using funds provided from this Grant or personnel employed in the administration of this program for political activities, sectarian or religious activities, lobbying, political patronage, or nepotism activities.
4. Grant funds may not be used for marketing or entertainment expenses.
5. Grant funds may not be used for capital assets, such as the purchase of vehicles, improvements and renovation of space, and repair and maintenance of privately owned vehicles.

#### **P. Audits**

The Grantee agrees to comply with audit requirements as specified in 2 CFR Part 200, Subpart F, "Audit Requirements."

The Grantee shall provide any audit with findings related to this award, with copies of the reporting package (including corrective action plans), management letters issued by an auditor, and audit working papers, to the Grantor.

The Grantor will seek to issue a management decision to the Grantee within six months of receipt of an audit report with findings, and the Grantee shall take timely and corrective action to comply with the management decision.

The Grantor reserves the right to conduct an independent follow-up audit.

## **Q. Reporting Subawards and Executive Compensation**

### *a. Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

### *2. Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

### *b. Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To

determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

- i. As part of your registration profile at <https://www.sam.gov>.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions*

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. *Executive* means officers, managing partners, or any other employees in management positions.

3. *Subaward*:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_\_\_ .210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. *Salary and bonus.*

ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

v. *Above-market earnings on deferred compensation which is not tax-qualified.*

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

## **R. Recipient Integrity and Performance Matters**

### **A. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE**

#### *1. General Reporting Requirement*

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

#### *2. Proceedings About Which You Must Report*

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five year period; and
- c. Is one of the following:

- (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
- (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- (4) Any other criminal, civil, or administrative proceeding if:
  - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
  - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### *3. Reporting Procedures*

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

### *4. Reporting Frequency*

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

### *5. Definitions*

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of *nolo contendere*.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.



## **S. Requirement to Post an Abstract**

Pursuant to the requirements of Section 8123 of the Department of Defense Appropriations Act, 2015, the Grantee is hereby informed that the Office of Economic Adjustment is required to post a publicly releasable abstract statement that describes the project or program supported by this Grant, in terms that the public can understand, to Department of Defense website, <https://dodgrantawards.dtic.mil/grants/index.html#/home>.

By signing this award agreement, the Grantee accepts this requirement and confirms OEA may publicly release and post an abstract obtained from the Grantee's grant application to Department of Defense website, <https://dodgrantawards.dtic.mil/grants/index.html#/home>.

## **T. Prohibition on Using FY 15 Funds under Grants with Entities that Require Certain Internal Confidentiality Agreements**

The recipient shall not require employees, contractors or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with this prohibition are no longer in effect.

The prohibition of this award provision does not contravene requirements applicable to any form issued by a Federal department of agency governing the nondisclosure of classified information.

If the Government determines that the recipient is not in compliance with this award provision, it:

- (1) Will prohibit the recipient's use of any FY 2015 funds under this award, in accordance with section 743 of Division E, Title VIII of the Consolidated and Further Continuing Resolution Appropriations Act, 2015, (Pub. L 113-235); and
- (2) May pursue other remedies available for the recipient's material failure to comply with award terms and condition

## **U. Compliance**

OEA may suspend or terminate this Agreement in whole, or in part, if the Grantee materially fails to comply with any term or condition of this Agreement. The Grantee shall not incur new obligations for the terminated portions after receiving notice of the termination, and shall cancel as many outstanding obligations as possible. Additional enforcement remedies for non-compliance and termination provisions, in 2 CFR Part 200 apply to this award. The decision of the Grantor in interpreting the Terms and Conditions of this Agreement shall be final.

## V. Interest

Interest earned amounts up to \$500 per year may be retained by the Grantee for administrative expense. Any additional interest earned on Federal advance payment deposited in interest-bearing accounts must be remitted annually to the U.S. Department of Health and Human Services.

**(1) To return interest on a grant not paid through the PMS, make your check payable to the Department of Health and Human Services.**

Mail the Check to:

HHS Program Support Center  
P.O. Box 530231  
Atlanta, GA 30353-0231

Please include a brief statement explaining the nature of the return.

**(2) If the grant for which you are returning interest is paid through PMS, the refund should include:**

- An explanation stating that the refund is for interest
- List the PMS Payee Account Number(s) (PANs)
- List the grant number(s) for which the interest was earned
- The return should be made payable to: Department of Health and Human Services.

You may return funds for principle and interest in the same refund; however, you must note the amounts that should be applied to each.

If the grant for which you are returning interest is not paid through the PMS, the refund should be accompanied with:

- An explanation stating that the refund is for interest
- The name of the awarding agency
- The grant number(s) for which the interest was earned
- The return should be made payable to: Department of Health and Human Services.

**U.S DEPARTMENT OF DEFENSE**  
**OFFICE OF ECONOMIC ADJUSTMENT**  
**GRANT AWARD: HQ00052310057**  
**NATIONAL POLICY REQUIREMENTS**

## **I. NATIONAL POLICY REQUIREMENTS**

### **NP Article I. Nondiscrimination national policy requirements. (OCTOBER 2015)**

**Section A. Cross-cutting nondiscrimination requirements.** By signing this agreement or accepting funds under this agreement, you assure that you will comply with applicable provisions of the national policies prohibiting discrimination:

1. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), as implemented by DoD regulations at 32 CFR part 195.
2. On the basis of gender, blindness, or visual impairment, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as implemented by DoD regulations at 32 CFR part 196.
3. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
4. On the basis of disability, in the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.
5. On the basis of disability in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) related to physically handicapped persons' ready access to, and use of, buildings and facilities for which Federal funds are used in design, construction, or alteration.

**Section B. Other nondiscrimination requirements. RESERVED.**

### **NP Article II. Environmental national policy requirements. (OCTOBER 2015)**

**Section A. Cross-cutting environmental requirements.** You must:

1. Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.).
2. Immediately identify to us, as the Federal awarding agency, any potential impact that you find this award may have on:
  - a. The quality of the human environment, including wetlands, and provide any help we may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321 et seq.) and assist us to prepare Environmental Impact Statements or other environmental documentation. In such cases, you may take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) or limit the choice of reasonable alternatives until we provide written notification of Federal compliance with NEPA.

- b. Flood-prone areas, and provide any help we may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
  - c. Use of land and water resources of coastal zones, and provide any help we may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.).
  - d. Coastal barriers along the Atlantic and Gulf coasts and Great Lakes' shores, and provide help we may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
  - e. Any existing or proposed component of the National Wild and Scenic Rivers system, and provide any help we may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
  - f. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide any help we may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h-3).
3. Comply with applicable provisions of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), as implemented by the Department of Housing and Urban Development at 24 CFR part 35. The requirements concern lead-based paint in buildings owned by the Federal Government or housing receiving Federal assistance.

**Section B. Other environmental requirements. RESERVED.**

**NP Article III. National policy requirements concerning live organisms. (OCTOBER 2015)**

**Section A. Cross-cutting requirements concerning live organisms. You must:**

1. **Human subjects.** You must protect the rights and welfare of individuals that participate as human subjects in research under this award in accordance with DoD regulations at 32 CFR part 219 and DoD Instruction 3216.2.
2. **Animals.**
  - a. You must comply with applicable provisions of Department of Agriculture rules at 9 CFR parts 1-4 and DoD Instruction 3216.1, which implement the Laboratory Animal Welfare Act of 1966 (7 U.S.C. 2131-2156) and provide for humane transportation, handling, care, and treatment of animals used in research, experimentation, testing, or training under this award. You may not begin any animal work under the award that the awarding DoD Component has not reviewed and approved, as specified in paragraph 2.d of Enclosure 3 to DoD Instruction 3216.1.

- b. Your animal care program must meet the standards set forth in the National Academy of Sciences publication “Guide for the Care and Use of Laboratory Animals” (eighth edition, 2011, which may be found currently at <http://www.nap.edu/catalog/12910/guide-for-the-care-and-use-of-laboratory-animals-eighth>).
- c. You must immediately identify to us, as the Federal awarding agency, any potential impact that you find this award may have on endangered species, as defined by the Endangered Species Act of 1973, as amended (“the Act,” 16 U.S.C. 1531-1543), and implementing regulations of the Departments of the Interior (50 CFR parts 10-24) and Commerce (50 CFR parts 217-227). You also must provide any help we may need to comply with 16 U.S.C. 1536(a) (2). This is not in lieu of responsibilities you have to comply with provisions of the Act that apply directly to you as a U.S. entity, independent of receiving this award.

**Section B. Other requirements concerning live organisms. RESERVED.**

**NP Article IV. Other national policy requirements. (OCTOBER 2015)**

**Section A. Cross-cutting requirements.**

1. **Debarment and suspension.** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by DoD at 2 CFR part 1125. This includes requirements concerning your principals under this award, as well as requirements concerning your procurement transactions and subawards that are implemented in PROC Articles I through III and SUB Article II.
2. **Drug-free workplace.** You must comply with drug-free workplace requirements in Subpart B of 32 CFR part 26, which is the DoD implementation of 41 U.S.C. Chapter 81, “Drug-Free Workplace.”
3. **Lobbying.**
  - a. You must comply with the restrictions on lobbying in 31 U.S.C. 1352, as implemented by DoD at 32 CFR part 28, and submit all disclosures required by that statute and regulation.
  - b. You must comply with the prohibition in 18 U.S.C. 1913 on the use of Federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a Member of Congress or official of any government concerning any legislation, law, policy, appropriation, or ratification.
  - c. If you are a nonprofit organization described in section 501(c)(4) of title 26, United States Code (the Internal Revenue Code of 1968), you may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., chapter 26). If we determine that you have engaged in lobbying activities, we will cease all payments to

you under this and other awards and terminate the awards unilaterally for material failure to comply with the award terms and conditions.

4. **Officials not to benefit.** You must comply with the requirement that no member of Congress shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 6306.

5. **Hatch Act.** If applicable, you must comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508) concerning political activities of certain State and local government employees, as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.

6. **Native American graves protection and repatriation.** If you control or possess Native American remains and associated funerary objects, you must comply with the requirements of 43 CFR part 10, the Department of the Interior implementation of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C., chapter 32).

7. **Fly America Act.** You must comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), commonly referred to as the “Fly America Act,” and implementing regulations at 41 CFR 301-10.131 through 301-10.143. The law and regulations require air transport of people or property to, from, between or within a country other than the United States, the cost of which is supported under this award, to be performed by or under a cost-sharing arrangement with a U.S. flag carrier, if service is available.

8. **Use of United States-flag vessels.** You must comply with the following award term specified by the Department of Transportation at 46 CFR 381.7, in regulations implementing the Cargo Preference Act of 1954:

- a. Pursuant to Pub. L. 83-664 (46 USC 55305), at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds under this award, and which may be transported by ocean vessel, must be transported on privately owned United States-flag commercial vessels, if available.
- b. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 98.a of this section shall must be furnished to both our award administrator (through you in the case of your contractor’s bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

9. **Research misconduct.** You must comply with requirements concerning research misconduct in Enclosure 4 to DoD Instruction 3210.7, “Research Integrity and Misconduct.” The Instruction implements the Government wide research misconduct policy that the Office of Science and

Technology Policy published in the Federal Register (65 FR 76260, December 6, 2000), available through the U.S. Government Printing Office web site:

<http://www.gpo.gov/fdscys/browse/collection.action?Code=FR>).

**10. Requirements for an Institution of Higher Education Concerning Military Recruiters and Reserve Officers Training Corps (ROTC).**

- a. As a condition for receiving funds available to the DoD under this award, you agree that you are not an institution of higher education (as defined in 32 CFR part 216) that has a policy or practice that either prohibits, or in effect prevents:
  - (1) The Secretary of a Military Department from maintaining, establishing, or operating a unit of the Senior Reserve Officers Training Corps(ROTC)—in accordance with 10 U.S.C. 654 and other applicable Federal laws—at that institution (or any subelement of that institution);
  - (2) Any student at that institution (or any subelement of that institution) from enrolling in a unit of the Senior ROTC at another institution of higher education.
  - (3) The Secretary of a Military Department or Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer; or
  - (4) Access by military recruiters for purposes of military recruiting to the names of students (who are 17 years of age or older and enrolled at that institution or any subelement of that institution); their addresses, telephone listings, dates and places of birth, levels of education, academic majors, and degrees received; and the most recent educational institutions in which they were enrolled.
  - (5) If you are determined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this award, we:
    - (a) Will cease all payments to you of DoD funds under this award and all other DoD grants and cooperative agreements; and
    - (b) May suspend or terminate those awards unilaterally for material failure to comply with the award terms and conditions.

**11. Historic preservation. You must identify to us any:**

- a. Any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and provide any help we may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16



U.S. C. 470f), as implemented by the Advisory Council on Historic Preservation regulations at 36 CFR part 800 and Executive Order 11593, "Identification and Protection of Historic Properties," [3 CFR, 1971-1975 Comp., p. 559].

- b. Potential under this award for irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, and provide any help we may need, with respect to this award, to comply with the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1, et seq.).

**12. Relocation and real property acquisition.** You must comply with applicable provisions of 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

**13. Confidentiality of patient records.** You must keep confidential any records that you maintain of the identity, diagnosis, prognosis, or treatment of any patient in connection with any program or activity relating to substance abuse education, prevention, training, treatment, or rehabilitation that is assisted directly or indirectly under this award, in accordance with 42 U.S.C. 290dd-2.

**14. Pro-Children Act.**

You must comply with applicable restrictions in the Pro-Children Act of 1994 (Title 20, Chapter 68, Subchapter X, Part B of the U.S. Code) on smoking in any indoor facility:

- a. Constructed, operated, or maintained under this award and used for routine or regular provision of kindergarten, elementary or secondary education or library services to children under the age of 18.
- b. Owned, leased, or contracted for and used under this award for the routine provision of federally funded health care, day care, or early childhood development (Head Start) services to children under the age of 18.

**15. Constitution Day.** You must comply with Public Law 108-447, Div. J, Title I, Sec. 111 (36 U.S.C. 106 note), which requires each educational institution receiving Federal funds in a Federal fiscal year to hold an educational program on the United States Constitution on September 17th during that year for the students served by the educational institution.

**16. Trafficking in persons.** You must comply with requirements concerning trafficking in persons specified in the award term at 2 CFR 175.15(b), as applicable.

**17. Whistleblower protections.** You must comply with 10 U.S.C. 2409, including the:

- a. Prohibition on reprisals against employees disclosing certain types of information to specified persons or bodies; and

b. Requirement to notify your employees in writing, in the predominant native language of the workforce, of their rights and protections under that statute

**U.S DEPARTMENT OF DEFENSE**  
**OFFICE OF ECONOMIC ADJUSTMENT GRANT**  
**AWARD: HQ00052310057**  
**PROGRAM-SPECIFIC TERMS AND CONDITIONS**

**U.S. DEPARTMENT OF DEFENSE  
OFFICE OF ECONOMIC ADJUSTMENT  
GRANT PROGRAM-SPECIFIC  
TERMS AND CONDITIONS  
Effective: November 2, 2017**

The Office of Economic Adjustment's 'Notice of Award' consists of a 2-page form with numbered sections. Grantees should refer to the following section numbers to determine applicability: Section 3 for Award Type; Section 11 for Program Type; and Section 16 for CFDA Number and Title.

I. COMMUNITY INVESTMENT (Construction Grants)

CFDA 12.600, Community Investment includes four program areas:

- Public Schools on Military Installations
- Military Medical Center Access Improvement Program
- Civilian Infrastructure Investments on the Territory of Guam
- Projects that involve construction

The following program-specific terms and conditions are applicable to CFDA number 12.600, Community Investment:

A. The Grantee agrees to retain ownership of the new, expanded, or renovated facility and to insure, operate, and maintain or replace the facilities to the same standard and conditions as any other Grantee-owned property, to include scheduling and funding necessary maintenance, expansion, an/or replacement of the improved real property, on the same basis as any other Grantee-owned property and facilities.

B. Federal Interest

(1) (Property Trust Relationship) Real property, equipment, and intangible property that are acquired or improved through the use of OEA grant funding must be held in trust by the Grantee as trustee for the beneficiaries of the project or program under which the property was acquired or improved. With respect to real property, the trust shall remain in effect for the entire Federal Interest Period specified in section I.B.(3)a., (Federal Interest Period, Real Property) of these terms & conditions, unless otherwise stipulated in the grant agreement.

(2) (Notice of Federal Interest) A Grantee acquiring or improving real property through the use of OEA grant funding must record a Notice of Federal Interest (NFI) in the appropriate official records of the jurisdiction in which the property is located. NFI recordation must occur at the time the real property acquisition or improvement begins. The NFI shall remain in effect for the entire Federal Interest

Period applicable to the subject real property as set forth by OEA in section I.B.(3)a., (Federal Interest Period, Real Property), unless otherwise stipulated in the grant agreement. A copy of the recorded NFI must be provided to the OEA Project Manager (PM) within 10 days following the date of recordation.

### (3) Federal Interest Periods

- a. (Real Property) The OEA Federal Interest Period shall be 30 years from the start date of construction unless otherwise specified by the grant agreement.
- b. (Personal Property) All personal property (e.g., equipment and non-fixed asset machinery) conforming to 2 CFR § 200.33 definitions must be managed in accordance with 2 CFR § 200.311 and 2 CFR § 200.313. Management of personal property in accordance with local standards is acceptable, provided local standards meet 2 CFR 200 requirements. A list of all grant-purchased personal property must be submitted to OEA as a deliverable prior to grant closeout.

### (4) Real Property Monitoring

- a. (Real Property Status Report) Grantees are required to report on the status of real property acquired or improved through federal funding using the Office of Management and Budget (OMB) Standard Form 249 (SF 429). This reporting will occur at the time of grant closeout as part of the submission of the final performance report and at the time of disposal. The requirement to provide the real property status report at the time of grant closeout does not relieve the Grantee of its responsibility to provide a timely copy of the recorded NFI within the 10 days of the recordation as provided in sec. I.B.(2) above.
- b. (Prior Approval for Changes/Renovations to Real Property) For real property subject to an OEA federal interest, before undertaking significant changes or renovations that have the potential to alter aspects of the property's end use approved at the time of the grant award, Grantees must obtain written prior approval from the OEA Grants Management Officer. Grantees must use the SF 429 form to request written prior approval.

### (5) Disposal

- a. (Real Property) During the Federal Interest Period, Grantees must request in writing OEA instructions and written approval prior to disposing of real or personal property subject to an OEA federal interest. If an OMB form is current and available (e.g., the SF 429, Real Property Status Report), it must be used for the request.
- b. (Personal Property) The completed equipment list required for any grant that includes funding for the purchase of personal property should identify (among other information) the warranty period and expected useful life (from the date of

purchase) of that personal property. If such personal property will be disposed prior to the date of its expected useful life, the Grantee must request from OEA instructions and approval in writing on the disposal of the personal property. If disposed after that date, OEA notification and prior approval is not required.

- (6) (Federal Interest Expiration) The OEA federal interest in real property acquired or improved through an OEA grant will expire at the end of the Federal Interest Period specified in sec. I.B.(3)a. of this policy, unless otherwise stipulated in the grant agreement.
- C. (Site Control) Prior to the start of construction and any ground disturbing activity, the Grantee shall provide to the Grantor for prior approval evidence of adequate access and site control to permit necessary construction, renovation, repair, expansion, demolition and/or swing space activities as well as operation and maintenance of the completed facility. Generally, site control of not less than 25 years shall be evidenced.
- D. (Davis-Bacon) Grantees should verify whether Federal prevailing wage rates under the Davis-Bacon Act (40 U.S.C. § 276a to 276a-7) are required if a project undertaken under this program expends any Federal funds beyond just those from the Grantor. Generally, the Davis-Bacon Act does not apply to construction activities funded solely with Grantor funding under this program. This does not affect the Grantee's responsibility to comply with all other Federal laws, as well as state and local laws, which may, in some circumstances, require the application of state or locally mandated prevailing wage rates.
- E. (Buy American Act) The "Buy American" Act (BAA) provisions apply to Office of Economic Adjustment construction grant projects. The BAA does not apply.
- F. Grantee agrees to provide programs and services on the same basis as such programs are made available at any other Grantee-operated facility. The Grantee may not charge for the ordinary use of facilities, furnishing, or equipment purchased with Grant funds.
- G. The Grantee shall administer and supervise implementation of the project, maintaining competent architectural supervision and inspection at the project site to ensure the work conforms to the approved drawings and specifications.
- H. (Contingency) Project underrun amounts shall be added to the Contingencies line item. In the event the final project cost is less than the currently estimated total project cost, the amount of matching share funds shall be unchanged and the grant amount will be reduced, accordingly. Grantor prior approval is required before the Grantee may move any funding from the Contingencies budget category.
- I. (Project Overruns) In the event the final project cost exceeds the currently estimated total project cost, the Grantee may be required to provide the additional funding needed to complete the project.

- J. (Project Development Time Schedule) The Grantee will abide by the Project Development Time Schedule. Failure to meet the Project Development Time Schedule, as identified in the Notice of Award, is considered a violation of the Grant Agreement and may result in action by the Grantor to suspend and/or terminate the Grant. The Project Development Time Schedule may only be extended as a result of a written request from the Grantee and a written approval by the Grantor.
- K. (NEPA) The Grantee understands that, as of the date of this Notice of Award, the Grantor has not satisfied the requirements of the National Environmental Policy Act. The Grantee consequently shall not proceed with construction or undertake any other ground-disturbing project activities prior to receiving written notice from the Grantor that the requirements of the National Environmental Policy Act have been met. This restriction does not apply to project design, development of environmental information, administrative activities, securing permits, or other activities that present no risk of irreparable injury to the environment.

L. Deliverables

- (1) The Grantee will provide the Grantor with a copy of the certificate of occupancy for the completed project issued by the appropriate jurisdiction.
- (2) The Grantee will provide the Grantor with a list of all grant-related personal property (e.g., equipment and non-fixed asset machinery—as conforming to 2 CFR § 200.33, § 200.313).
- (3) The Grantee will provide the Grantor with final “as-built” construction plans as well as final inspection reports (including photo documentation).
- (4) The Grantee will provide the Grantor with evidence a Notice of Federal Interest (NFI, see I.B.(2) above) has been recorded in the appropriate official records of the jurisdiction in which the property is located within 10 days of recordation.

II. FORCE REDUCTION (Non-Construction Grants)

CFDA 12.604, Community Economic Adjustment Assistance for Reductions in Defense Spending

- A. The Grantee is restricted from using Office of Economic Adjustment grant funds on the following activities:
  - (1) Construction;
  - (2) International travel;
  - (3) Activities otherwise eligible for or funded through other Federal grant programs; and
  - (4) Activities that seek to reverse or oppose Defense spending reductions.

### III. BASE REALIGNMENT AND CLOSURE (Non-Construction Grants)

The Base Realignment and Closure Grant Program consists of two (2) CFDA Numbers:

- CFDA 12.607, Community Economic Adjustment Assistance for Establishment, Expansion, Realignment, or Closure of a Military Installation; and
- CFDA 12.614, Community Economic Adjustment Assistance for Advance Planning and Economic Diversification.

- A. The Grantee is restricted from using Office of Economic Adjustment grant funds on the following activities:
- (1) Construction;
  - (2) International travel;
  - (3) Activities otherwise eligible for or funded through other Federal grant programs; and
  - (4) Activities that seek to reverse or oppose Defense spending reductions.

#### B. Business Relocation Provision

Funds provided under this award may not be used to directly identify or assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one Labor Market Area (LMA) to another if the relocation is likely to result in the loss of jobs in the LMA from which the relocation occurs.

### IV. JOINT LAND USE STUDY (Non-Construction)

CFDA 12.610, Community Economic Adjustment Assistance for Compatible Use and Joint Land Use Studies

- A. The Grantee will adhere to the Terms & Conditions included in Section 20 of the Notice of Award.

### V. DEFENSE AND INDUSTRY ADJUSTMENT (Non-Construction)

The Defense Industry Adjustment Grant Program consists of three (3) CFDA Numbers:

- 12.611, Community Economic Adjustment Assistance for Reductions in Defense Industry Employment;



- 12.614, Community Economic Adjustment Assistance for Advance Planning and Economic Diversification; and
- 12.617, Economic Adjustment Assistance for State Governments.

The following program-specific terms and conditions are applicable:

- A. Unless otherwise specified by the grant agreement, the Grantee is restricted from using Office of Economic Adjustment grant funds on the following activities:
- (1) Construction;
  - (2) Means of production;
  - (3) Activities otherwise eligible for or funded through other Federal grant programs; and
  - (4) Activities that seek to reverse or oppose Defense spending reductions.
- B. (Business Relocation Provision) Funds provided under this award may not be used to directly identify or assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one Labor Market Area (LMA) to another if the relocation is likely to result in the loss of jobs in the LMA from which the relocation occurs.
- C. (Work and Information Produced Under the Grant) The Grantor reserves the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes. Examples of a Federal purpose include but are not limited to: (1) Use by OEA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in DOD documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; and (5) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of OEA's authorization to the other grantee to use the copyrighted works or other data.
- D. Federal Interest for Personal Property (e.g., equipment) Acquired Under the Grant
- (1) Terms and conditions specified under section I.B. of this document apply.

## VI. RESEARCH AND TECHNICAL ASSISTANCE (Non-Construction)

CFDA 12.615, Research and Technical Assistance

A. The Grantee will adhere to the Terms & Conditions included in Section 20 of the Notice of Award.