



Manchester-Boston Regional Airport  
One Airport Road, Suite-300  
Manchester, New Hampshire 03103

# Addendum No. Four

**Date:** August 22, 2025

**Solicitation No: FY26-805-08 Request for Statement of Qualifications for Master Planning Services**

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This Addendum #4 to Request for Statement of Qualifications for Master Planning Services (the “RFQ”) contains the following clarifications and changes to the RFQ document:

- Clarification Regarding Audited Financial Statements
- Appendix B – **Sample** Agreement

## **CLARIFICATION REGARDING AUDITED FINANCIAL STATEMENTS**

The response to Question 2 in Addendum No. Three is hereby deleted and replaced with the following:

**Response:** If a Respondent does not have a current audited financial statement, then an executed certification that such a statement does not exist, and a compiled financial statement will be accepted.

## **APPENDIX B**

Attached to this Addendum is Appendix B - *Sample* Agreement.

Please note that the agreement provided in this Appendix B is merely a **sample** agreement, with terms and conditions subject to change and to negotiations with the successful Respondent.

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## APPENDIX B: SAMPLE AGREEMENT

**NOTE: The agreement provided in this Appendix B is merely a  
**SAMPLE AGREEMENT.**  
Terms and conditions subject to change.**



# **AIRPORT MASTER PLANNING SERVICES AGREEMENT**

**Between**

**CITY OF MANCHESTER DEPARTMENT OF AVIATION**

**and**

**[CONTRACTOR]**

**October \_\_\_\_, 2025**

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## AIRPORT MASTER PLANNING SERVICES AGREEMENT

THIS AIRPORT MASTER PLANNING SERVICES AGREEMENT (hereinafter referred to as the “Services Agreement”) is made and entered into as of this \_\_\_\_\_ day of October, 2025, (the “Effective Date”) by and between the City of Manchester, New Hampshire, acting by and through its Department of Aviation (“City”), being a duly and lawfully constituted municipal corporation having a mailing address of 1 Airport Road, Suite 300, Manchester, New Hampshire 03103 and [Contractor], (“Contractor”), a [state of incorporation] [type of business (limited liability company, etc.)], having a mailing address of [insert address].

**WHEREAS**, City owns, controls, operates, and manages that certain real property commonly known and described as the Manchester-Boston Regional Airport (the “Airport”), located in the city of Manchester, New Hampshire, and the town of Londonderry, New Hampshire;

**WHEREAS**, City has the power and authority to enter into the Agreement (as defined below) and to grant the rights and privileges conveyed hereby;

**WHEREAS**, Contractor is duly organized and validly existing as a [type of business (limited liability company, etc.)] and is in good standing under the laws of the state of New Hampshire, and has the power and authority to enter into the Agreement;

**WHEREAS**, Contractor desires to provide City with airport master planning services pursuant and subject to the terms and conditions set forth in the Agreement; and

**WHEREAS**, City desires to contract said airport master planning services from Contractor, pursuant and subject to the terms and conditions set forth in the Agreement;

**NOW THEREFORE**, in recognition, reliance upon, and consideration of the foregoing and the mutual terms, provisions, and covenants contained in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Contractor agree as follows:

## ARTICLE I – PARTIES AND THIS AGREEMENT

### 1.1 City’s Authority

City warrants and represents that City has the right, power, and legal capacity to enter into, and perform City’s obligations under the Agreement. The Director (as hereinafter defined) shall administer the Agreement on behalf of City. Unless otherwise provided herein or required by applicable law, the Director shall be vested with all rights, powers, and duties of City herein.

## **1.2 Contractor's Authority**

Contractor warrants and represents that Contractor has the right, power, and legal capacity to enter into, and perform Contractor's obligations under the Agreement. The execution, delivery, and performance of the Agreement by the undersigned Contractor representatives have been duly authorized by all necessary action of the Contractor, and the Agreement will constitute a legal, valid, and binding obligation of Contractor, enforceable in accordance with the terms of the Agreement.

## **1.3 Binding Effect**

Except as otherwise expressly provided herein, the covenants, conditions, and agreements contained in the Agreement shall be binding upon and shall inure to the benefit of City and Contractor and their respective successors, assigns, heirs, and personal representatives. This provision does not alter the restrictions on assignment and disposal of assets set out in Article \_\_\_\_ of this Services Agreement.

## **1.4 Relationship of the Parties**

Contractor is not an employee or agent of City by reason of the Agreement, or otherwise. Contractor shall be solely responsible for Contractor's acts and omissions arising from or relating to Contractor's operations or activities at the Airport. Nothing in the Agreement shall be construed to render Contractor in any way, or for any purpose, a partner, joint venturer, or associate in any relationship with City other than the relationship described herein, nor shall the Agreement be construed to authorize either City or Contractor to act as agent for the other.

# **ARTICLE II – DEFINITIONS**

For all purposes of this Services Agreement, capitalized terms shall have the definitions provided in this Article II, except as otherwise expressly stated or as otherwise clearly required by context. Such definitions shall be equally applicable to the singular and plural forms of such defined terms. The words "herein," "hereunder," and other words of similar nature refer to this Airport Master Planning Services Agreement as a whole. The word "shall" is mandatory and the word "may" is permissive.

**"Agreement"** means, jointly and severally, this Airport Master Planning Services Agreement and all exhibits attached hereto, the RFQ, and the Statement, all as may be amended, from time to time, upon mutual written agreement by and between City and Contractor. In the event of a conflict between this Airport Master Planning Services Agreement and any of the other documents referenced herein, the terms of this Airport Master Planning Services Agreement shall control.

**“Airport”** means that certain airport commonly known and described as the Manchester-Boston Regional Airport located in the city of Manchester, New Hampshire and the town of Londonderry, New Hampshire.

**“Bid”** means Contractor’s Bid form attached hereto as Exhibit A including herein and any material representations made by Contractor, and excluding any representations as may have been rejected in writing by City.

**“City”** means, jointly and severally, the City of Manchester, New Hampshire, acting by and through its Department of Aviation, its successors and assigns, and City’s Agents, where applicable.

**“City’s Agents”** means City’s employees, agents, invitees, guests, volunteers, patrons, contractors, Subcontractors, suppliers, licensees, representatives, directors, officers, and partners, excluding Contractor or Contractor’s Agents.

**“Contractor”** means, jointly and severally, [Contractor Company Name], a [state of incorporation] [type of business (limited liability company, etc.)], its successors and assigns, and Contractor’s Agents, where applicable.

**“Contractor’s Agents”** means Contractor’s employees, agents, invitees, guests, volunteers, patrons, contractors, Subcontractors, suppliers, licensees, representatives, directors, officers, partners, or any other person, excluding City or City’s Agents.

**“Director”** means the Director of the Manchester-Boston Regional Airport or their designee, as appointed in writing.

**“Effective Date”** means the date referenced in the opening paragraph of this Services Agreement.

**“FAA”** means the United States Federal Aviation Administration and any agency or instrumentality of the United States government succeeding to its functions.

**“Indemnified Losses”** means any and all liability and damages, costs, and expenses, including reasonable attorneys’ fees, and any and all allegations, suits, causes of action, claims, or demands of any kind or nature whatsoever, arising out of or in any manner connected with the activities contemplated by the Agreement.

**“Insurance”** has the meaning set forth in Section 8.1 of this Services Agreement.

**“Minimum Standards”** means the Minimum Standards for General Aviation Commercial Operators promulgated by City, as may be amended from time to time. The Minimum Standards in effect as of the Effective Date can be found on the City’s website at: <https://www.flymanchester.com/public-documents-and-plans/>, and are incorporated herein by reference.

**“RFQ”** means City’s Request for Statement of Qualifications for Master Planning Services, dated July 23, 2025, Solicitation Number FY26-805-08, and all appendices, attachments, and addenda thereto.

**“Rules and Regulations”** means the rules and regulations promulgated by City governing conduct on, and operations at, the Airport, as may be amended from time to time. The Rules and Regulations in effect as of the Effective Date can be found on the City’s website at: <https://www.flymanchester.com/public-documents-and-plans/>, and are incorporated herein by reference.

**“Services Agreement”** means this Airport Master Planning Services Agreement, as such agreement may be amended, from time to time, upon mutual written agreement by and between City and Lessee, and all exhibits attached hereto.

**“Statement”** means Contractor’s response to the RFQ, including all exhibits, schedules, addenda, appendices, and attachments thereto, and any material representations made by Contractor, and excluding any portions of said response, documents, and representations as may have been rejected by City.

**“SSI”** means Sensitive Security Information, as further defined in 49 C.F.R. 1520.5.

**“Subcontractor”** means, jointly and severally, any individual, materialman, supplier, distributor, vendor, firm, sole proprietor, association, partnership, company, corporation, subsidiary, affiliate, or combination thereof, including joint venturer or any other entity that performs any part of the work related to the Agreement, or any other of the Contractor’s obligations under the Agreement.

**“Term”** means the period of time commencing on **October 15, 2025** and terminating on [insert date], unless terminated earlier in accordance with the terms of the Agreement.

**“TSA”** means the Transportation Security Administration.

**“Work Product”** means, jointly and severally, any and all documents, plans, data, specifications, studies, reports, estimates, drawings, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes, and any other materials and works of any kind of description created or produced by or for Contractor or any Subcontractors in connection with the Agreement.

## **ARTICLE III – SCOPE OF SERVICES**

### **3.1 General Scope of Services.**

In consideration of the payment specified in the Agreement, Contractor shall furnish all personnel, supplies, equipment, materials, and labor necessary to perform, undertake, and complete the Master Plan Update for the City, as specified in the incorporated RFQ.

### **3.2 Coordination of Performance.**

Contractor shall coordinate performance with the Director, or other persons that the Director designates. Contractor shall promptly inform City of all significant events relating to the performance of the Agreement. Contractor shall perform all work under the Agreement in accordance with professional standards, in an expeditious and economical manner consistent with the City's best interest, and to the satisfaction of the Director, who shall have the right of inspection at all times and whose approval and acceptance of such work shall be a condition precedent to any payment hereunder. Contractor shall promptly submit any and all reports and progress updates required by Director.

### **3.3 Work Product.**

All Work Product shall at all times be the property of City. City shall have the non-exclusive right to use or permit the use of all Work Product, and any ideas or methods represented thereby, at any time, without additional compensation to Contractor. Any copies of the Work Product shall be promptly delivered to City upon City's request, provided however that Contractor may, with the written approval of City, retain the right of ownership with respect to any patentable concepts or copyrightable materials arising from Contractor's services. Any and all Work Product shall be deemed works for hire. With written approval of the Director, Contractor may retain and use copies of the Work Products for reference and as documentation of Contractor's experience and capabilities.

## **ARTICLE IV – TERM**

### **4.1 Effective Date.**

The Agreement shall become effective as of the Effective Date, and the rights obligations under the Agreement shall commence on such date, subject to the other provisions hereof.

### **4.2 Term.**

The term of the Agreement shall commence upon **October 15, 2025**, and shall terminate on **[insert date]**, unless terminated earlier in accordance with the terms of the Agreement.

### **4.3 Termination.**

City may terminate the Agreement at any time upon written notice to Contractor. Unless due to an uncured default under the Agreement, any expiration or termination of the Agreement shall be without prejudice.

## **ARTICLE V – PAYMENTS AND PRICING**

### **5.1 Pricing.**

[to be negotiated].

### **5.2 Payment Provisions.**

Contractor shall submit invoices on forms approved in advance by the Director. Each invoice must be accompanied by copies of certified time sheets and any other support documents as may be requested by the Director. Each invoice Contractor submits must be in duplicate and each copy must include required support documents. All invoices are to be delivered or mailed to the following location: Manchester-Boston Regional Airport, Accounts Payable Section, 1 Airport Road, Suite 300, Manchester, New Hampshire 03101. All Contractor invoices are subject to approval by the Director or designee and are due and payable within thirty (30) calendar days after receipt and approval by the Director or designee. The Director or designee shall have the continuing right to request and receive from Contractor evidence which validates Contractor's invoices. All payments must be made by check made payable to Contractor. City will not unreasonably delay or withhold payment or approval of any invoice. Neither payments made nor approval of invoices or services by the Director or designee shall be construed as final acceptance or approval of that part of Contractor's services to which such payment or approval relates. Such payments do not relieve Contractor of any of its obligations under the Agreement.

### **5.3 Disputed Payments.**

If City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

### **5.4 Taxes.**

City is exempt from payment of Federal Excise and Transportation Tax. Contractor's invoices to City shall not include assessments of any of these taxes. The Director will furnish City's exemption certificate and federal tax identification number to Contractor if requested.

## **ARTICLE VI – CONTRACTOR'S OBLIGATIONS**

### **6.1 Standard of Care.**

Contractor shall exercise the same degree of care, skill, and diligence in the performance of the services required under the terms of the Agreement as is ordinarily

possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. Contractor represents that:

- a. Contractor's obligations hereunder are not in conflict with any other Contractor obligation;
- b. Each of Contractor's employees has the proper skill, training, and background necessary to accomplish their assigned tasks; and,
- c. All services Contractor provides pursuant to the Agreement will be performed in a competent and professional manner, by qualified personnel authorized, as necessary, under applicable State and Federal laws to perform the work necessary to meet the obligations of the Agreement.

## **6.2 Personnel.**

Contractor shall provide fully qualified personnel as specified in the Statement. Personnel shall be of sufficient number to meet the performance requirements of the Agreement. Should the number of personnel offered by Contractor in the Statement be deemed by either party to be insufficient to meet the intent of the Agreement, then Contractor shall increase the number of personnel to a sufficient amount agreed upon by Contractor and City, at no additional cost to City. If the number of personnel is insufficient for any reason other than a reason solely caused by Contractor, then the addition of enough personnel to be sufficient will be at no cost to the Contractor. Contractor shall replace any personnel or Subcontractor at City's request.

## **6.3 Subcontractors.**

Without limiting the ability of Contractor to hire Subcontractors in accordance with the Agreement, City shall have the right to require Contractor to engage Subcontractors reasonably acceptable to Contractor to perform any of the work required for the successful completion of the terms of the Agreement. Notwithstanding the above, none of the services to be provided by Contractor pursuant to the Agreement shall be subcontracted or delegated, in whole or in part, to any other organization, association, individual, corporation, partnership, or other such entity without the prior written approval of City. Prior to engaging any Subcontractor for the work to be performed under the Agreement, Contractor shall provide City a written notice including the name of each Subcontractor and a detailed description of the work to be performed by said Subcontractor. Contractor shall enter into a written agreement with each such Subcontractor pursuant to which each such Subcontractor agrees to be bound by the terms and conditions of the Agreement. Any subcontract entered into by Contractor shall comply with applicable federal grant assurances contained in the Agreement. Contractor shall remain fully liable and responsible for the performance of any Subcontractors and shall ensure compliance with all applicable requirements of the Agreement and any contract between Contractor and such Subcontractors. In accordance with the Agreement, Contractor shall make timely

payments to all Subcontractors. Contractor SHALL DEFEND AND INDEMNIFY City FROM ANY CLAIMS OR LIABILITY ARISING OUT OF Contractor'S FAILURE TO MAKE TIMELY PAYMENTS TO ALL SUBContractorS.

#### **6.4 Withholding of Payment for Deficient Work.**

If City pays Contractor for work performed by any Subcontractor for deliverables, supplies, equipment, or materials provided by any supplier, and Contractor withholds or has withheld payment to the Subcontractor or supplier because of a deficiency in the quality or quantity of that Subcontractor's or supplier's work or materials, City may withhold a corresponding amount from any pending or future payments to Contractor until the next regular payment to Contractor occurring after City receives reasonable documentation that the deficiency has been remedied.

#### **6.5 Time for Performance.**

The time for performance of all work as may be assigned hereunder shall be \_\_\_\_\_ from any notice to proceed. In the event that Contractor's performance is delayed by reasons beyond Contractor's or any Subcontractor's control, Contractor shall provide City with written notice of delay, together with a detailed explanation thereof and of all reasonable steps taken or to be taken to mitigate same, within five (5) days of the commencement of such delay. Upon City's written approval thereof, Contractor's performance may be extended for the amount of time City and Contractor determine is appropriate.

#### **6.6 Access to Records.**

Contractor shall, upon request of City, allow the Federal Aviation Administration, the Comptroller General of the United States, or any duly authorized representative complete access to any books, documents, papers, and records of the Contractor or Subcontractors which are pertinent to a specific grant program, for the purpose of making audits, examinations, excerpts, and transcriptions. Contractor is required to maintain all required records for a period of 3 years after project close-out and resolution of all pending matters.

#### **6.7 Licenses and Permits.**

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by the Agreement, any statute, ordinance, rule, or regulation, whether state, federal, or local at no cost to City. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against the holder of any such required licenses or certifications and the Contractor shall immediately remove such on-site employee(s), agent(s) or Subcontractor(s) from performing any further services under the Agreement until such license is reinstated and in good standing.

## **6.8 Sensitive Security Information.**

Contractor shall maintain in confidence, and shall cause its employees that meet 49 CFR 1520.11(a) to maintain in confidence, all records, documents, and information provided to Contractor by City for Contractor's preparation of any applicable Work Product, that contain and/or constitute SSI, including without limitation all data, plans, specifications, sketches, drawings, other renderings, individual personnel records, and all other records, documents, and information that contain and/or constitute SSI. Contractor shall restrict access to all such records, documents, and information that contain and/or constitute SSI only to those employees of Contractor who meet the requirements of 49 CFR 1520.11(a). The unauthorized release of SSI is prohibited. All records, documents and information defined by 49 C.F.R. 1520 as SSI, or designated by City as SSI, shall be marked, stored, distributed, and destroyed in accordance with 49 CFR 1520. SSI records, documents, and information received during the term of the Agreement are the property of City. No part of any such records or documents, or any of the information contained therein, may be photocopied or reproduced in any way except as specifically required or permitted by the terms of the Agreement, or released to any person without the prior written permission of City, subject to the requirements of 49 CFR 1520. Unauthorized possession, photocopying, reproduction, or release of such records and documents, or any portion of their contents, or failure to return the original and any copies made to City immediately upon request, shall constitute a material breach of the Agreement, and may result in immediate termination of the Agreement and/or such other action as deemed appropriate by City, including but not limited to referral to federal authorities.

## **6.9 Conflicts of Interest.**

If a potential or actual conflict of interests arises between City's interests and the interests of Contractor's other clients, Contractor shall immediately notify City by certified letter and request consent. City shall be deemed to consent to the conflict unless the City sends a written notice that City declines to consent within three (3) business days after City receives the notice. If City does not consent, Contractor shall immediately take steps to resolve the conflict.

## **6.10 Governmental Requirements.**

- A. Compliance with Regulations. Contractor shall comply with any applicable Federal Aviation Administration Regulations, as the same may be amended from time to time (including without limitation such rules and regulations of the Federal Aviation Administration as may be in effect from time to time with respect to airport security), and any other present or future laws, rules, regulations, orders or directions of the United States of America or the State of New Hampshire which from time to time may be applicable to Contractor's operations hereunder. Contractor shall procure from all governmental authorities having jurisdiction over the operations of Contractor hereunder, all licenses, franchises, certificates, permits, or other authorizations which may be

necessary for the conduct of such operations, and Contractor shall comply with all laws and lawful ordinances, and governmental rules, regulations, and orders during the Term of the Agreement which from time to time may be applicable to Contractor's operations hereunder.

- B. **Federal Identification Number.** Contractor shall agree to provide to the City with proof of the Contractor's Federal Identification Number (IRS Code Section 6723). Acceptable forms of documentation are: (i) a copy of a federal tax depository ticket; (ii) copy of an IRS label showing name and Federal ID Number of the Contractor; (iii) an IRS letter assigning a taxpayer Identification Number; or (iv) other correspondence from the IRS with both individual/business name and Federal Identification or stationery/bills with Federal ID Number (and firm name and address) PREPRINTED thereon. Any impertinent information may be blackened out before sending to City.

#### **6.11 City's Rules and Regulations.**

During the Term of the Agreement, Contractor shall observe and obey all ordinances, rules, and regulations promulgated by City governing conduct on, and operations at, the Airport, including, but not limited to, the Rules and Regulations and the Minimum Standards, provided that such rules and regulations do not conflict with the terms and conditions of the Agreement. In addition to the foregoing, Contractor shall comply immediately with all directives issued by the Director.

### **ARTICLE VII – CITY'S OBLIGATIONS**

#### **7.1 Provision of Information to Contractor.**

City shall provide Contractor with available information necessary to assist Contractor in the performance of the work under the Agreement. City does not guarantee the accuracy of the information provided to Contractor and Contractor remains responsible to verify information critical to the successful completion of the scope of work under the Agreement.

#### **7.2 Proprietary Data.**

City does not anticipate the receipt of proprietary data/material related to the Agreement. However, in the event that Contractor provides such propriety data/material, City will handle in strictest confidence all material received as part of Contractor's performance under the Agreement that is clearly marked as "proprietary." City will, upon reasonable request of Contractor, enter a confidentiality agreement with Contractor that will pertain to the content of Contractor's proprietary information and will apply throughout the period during which the Agreement is in effect.

## ARTICLE VIII – INSURANCE

### 8.1 **Required Insurance.**

Beginning on the Effective Date and continuing throughout the Term of the Agreement, Contractor shall maintain, at Contractor's sole cost and expense, appropriate insurance for the activities contemplated by the Agreement, including, but not limited to, the following minimum amounts and types of insurance coverages required by this Section 8.1 (collectively, the "Insurance"):

COVERAGE	LIMIT OF LIABILITY
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily Injury by Accident \$500,000 (each accident) Bodily Injury by Disease \$500,000 (policy limit) Bodily Injury by Disease \$500,000 (each employee)
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$2,000,000 each Occurrence, and \$5,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos
Professional Liability Coverage	\$1,000,000 per claim; \$2,000,000 aggregate
Cyber Security	\$5,000,000 per claim; \$10,000,000 aggregate
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability and Automobile Liability	\$5,000,000.00 per occurrence/aggregate
<b>Aggregate Limits are per 12-month policy period unless otherwise indicated.</b>	

ALL INSURANCE TYPES AND MINIMUM LIMITS REQUIRED BY City ARE SUBJECT TO RE-EVALUATION AND REVISION, AS City DEEMS REASONABLY NECESSARY, IN City'S SOLE DISCRETION, AT ANY TIME DURING THE TERM OF THE Agreement.

## **8.2 Insurance Coverage and Additional Insureds.**

Contractor shall obtain the Insurance from an insurance company authorized to do business in the state of New Hampshire and reasonably acceptable to City. The Insurance shall be in so-called “occurrence” form, including bodily injury, death, and property damage liability, insurance against any and all claims, including all legal liability to the extent insurable and imposed upon City, and all court costs and attorneys’ fees and expenses arising out of or connected with the activities contemplated by the Agreement. Where applicable, City of Manchester and the Manchester-Boston Regional Airport shall be named as additional insureds on the Insurance, all of which must be primary and noncontributory with respect to these additional insureds. All insurance limits are subject to re-evaluation and revision, as City deems reasonably necessary, in City’s sole discretion, at any time during the Term of the Agreement.

## **8.3 Evidence of Insurance and Material Changes.**

Certificates of insurance for the Insurance shall be delivered to City by Contractor within (i) fourteen (14) days from the Effective Date. Contractor shall provide City with thirty (30) days written notice of any substantial or material changes to or cancellation of any of the Insurance.

## **8.4 Failure to Maintain Insurance.**

Contractor shall not violate, nor allow Contractor’s employees, contractors, Subcontractors, or agents to violate any of the terms, conditions, and provisions of the Insurance. If Contractor fails to maintain and deliver to City the certificates of insurance for the Insurance required by the Agreement, or if the Insurance required by the Agreement are cancelled prior to the end of the Term, City may, but is not obligated to, procure such insurance, or pay any outstanding premiums at Contractor’s sole cost and expenses. Procurement of the Insurance or payment of premiums by City will not be deemed a waiver or release by City of a default under the terms of the Agreement, nor of any action City may take under the Agreement as a result of Contractor’s default. Failure of Contractor to comply with the required coverage, terms, and conditions outlined in this Article VIII will not limit Contractor’s liability or responsibility. In the event of an uncured default under the Agreement, all right, title, and interest of Contractor in and to the Insurance then in effect and all proceeds payable thereunder shall thereupon vest in City.

## **8.5 Waiver of Subrogation.**

Contractor hereby agrees to waive, and to require Contractor’s insurers to waive, any right of subrogation against City under all the Insurance for any loss arising from or relating to the Agreement.

## **ARTICLE IX – LIABILITY AND INDEMNITY**

### **9.1 Limitation of City’s Liability.**

EXCEPT FOR INJURY OR DAMAGE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF City, OR City’S EMPLOYEES, ContractorS, OR AGENTS, NEITHER City NOR City’S EMPLOYEES, ContractorS, OR AGENTS SHALL BE LIABLE FOR ANY LOSS, INJURY, DAMAGE, OR INCONVENIENCE TO Contractor OR Contractor’S EMPLOYEES, ContractorS, OR AGENTS, OR TO ANY PROPERTY BELONGING THERETO. Contractor HEREBY ACKNOWLEDGES AND AGREES THAT Contractor AND Contractor’S EMPLOYEES, ContractorS, AND AGENTS PROCEED WITH THE ACTIVITIES CONTEMPLATED BY THE Agreement AT THEIR OWN RISK.

### **9.2 Indemnification.**

Contractor SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, DEFEND, INDEMNIFY, AND HOLD City AND City’S EMPLOYEES, ContractorS, AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY AND DAMAGES, COSTS, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS’ FEES, AND FROM AND AGAINST ANY AND ALL ALLEGATIONS, SUITS, CAUSES OF ACTION, CLAIMS, OR DEMANDS OF ANY KIND OR NATURE WHATSOEVER, ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE ACTIVITIES CONTEMPLATED BY THE Agreement (“INDEMNIFIED LOSSES”). Contractor SHALL DEFEND ANY SUCH INDEMNIFIED LOSSES WITH COUNSEL REASONABLY ACCEPTABLE TO City. Contractor SHALL GIVE City WRITTEN NOTICE OF ANY INDEMNIFIED LOSSES PROMPTLY AFTER Contractor RECEIVES NOTICE THEREOF. Contractor SHALL NOT SETTLE OR COMPROMISE ANY CLAIM RELATED TO ANY INDEMNIFIED LOSSES WITHOUT THE PRIOR WRITTEN CONSENT OF City.

### **9.3 Survival of Indemnity.**

THE PROVISIONS UNDER THIS ARTICLE IX SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THE Agreement.

## **ARTICLE X – ASSIGNABILITY**

Contractor shall not, voluntarily, by operation of law, or otherwise, assign or transfer the Agreement nor dispose of all, or substantially all, of Contractor’s assets, without the prior written consent of City, which consent may be withheld in City’s sole and absolute discretion. Any attempts by Contractor to do any of the foregoing without such written consent shall be null and void and of no effect and shall further constitute a default under the Agreement. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest. In the case of any such assignment, Contractor shall immediately furnish City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the

fees to be paid to the Assignee. Contractor shall not delegate any portion of its performance under the Agreement without the Director's written consent.

## **ARTICLE XI – DEFAULT**

### **11.1 Events of Default.**

In the event of any of the following, City shall have the rights set forth in this Article XI:

- i. Contractor defaults in the performance or observance of any covenants or conditions of the Agreement and such default remains unremedied for ten (10) days after written notice thereof has been given or sent to Contractor by City;
- ii. Any material warranty or representation made by Contractor to City as an inducement to enter into the Agreement or as made herein proves to be false or misleading;
- iii. Contractor files a petition of bankruptcy or insolvency in any federal court, a receiver is appointed to take possession of Contractor's business operations as a result of any act or omission of Contractor, or Contractor makes an assignment for the benefit of creditors, or Contractor is dissolved or liquidated.

### **11.2 Effects of Default.**

In the event of any such defaults described in Section 11.1 herein, City will be entitled to immediately, or at any time thereafter, with or without notice or demand, terminate the Agreement. City's election to terminate the Agreement shall not be construed as a waiver of any claim City may have against Contractor hereunder. Contractor shall pay all costs and expenses incurred by City in enforcing the terms and conditions of the Agreement.

## **ARTICLE XII – NOTICES**

Any written notice, request, or demand required or permitted by the Agreement will, until either party notifies the other in writing of a different address, be properly given if (i) hand delivered; (ii) sent by certified mail, return receipt requested; (iii) registered first class mail, postage prepaid; or (iv) delivered by a nationally recognized overnight delivery service, and addressed as follows:

To City at:                      Manchester-Boston Regional Airport  
One Airport Road, Suite 300  
Manchester, New Hampshire 03103  
Attention: Properties and Contracts

To Contractor at: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All such notices shall be deemed effective as of the date of delivery if hand-delivered or sent by overnight delivery service, or three (3) days after such notice is deposited in the U.S. mail if sent by certified or registered mail.

## **ARTICLE XIII – GOVERNMENT REQUIREMENTS**

### **13.1 Compliance**

Contractor shall comply with any applicable FAA regulations, as the same may be amended from time to time (including without limitation such rules and regulations of the FAA or the Transportation Security Administration as may be in effect, from time to time, with respect to airport security), and any other present or future laws, rules, regulations, orders, or directions of the United States of America or the State of New Hampshire which, from time to time, may be applicable to Contractor's operations hereunder. Contractor shall procure from all governmental authorities having jurisdiction over the operations of Contractor hereunder, all licenses, franchises, certificates, permits, or other authorizations which may be necessary for the conduct of Contractor's operations on the Premises, and Contractor shall comply with all laws and lawful ordinances, and governmental rules, regulations, and orders during the Term of the Agreement which, from time to time, may be applicable to Contractor's operations hereunder.

## **ARTICLE XIV – FEDERAL CONTRACT PROVISIONS**

### **14.1 Maintenance of and Access to Records and Reports**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide City, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed. In light of the federal funds involved in the City's performance of the Agreement, the following federal laws, assurances, certifications, and disclosures are incorporated into and made a part of the Agreement, and by the execution of the Agreement, the Contractor agrees to comply with same, and for breach of any of which the Contractor shall be in default of the Agreement.

## **14.2 Breach of Contract Terms**

Any violation or breach of terms of this contract on the part of the Contractor or its Subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of the Agreement. City will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the Agreement. City reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or City elects to terminate the Agreement. The City's notice will identify a specific date by which the Contractor must correct the breach. City may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the City's notice. The duties and obligations imposed by the Agreement and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

## **14.3 Civil Rights – Title VI Assurances**

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance.

### **Compliance with Nondiscrimination Requirements**

During the performance of the Agreement, Contractor, for itself, its assignees, and successors in interest agree as follows:

1. **Compliance with Regulations:** Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of the Agreement.
2. **Nondiscrimination:** Contractor, with regard to the work performed by Contractor during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential Subcontractor or supplier will be notified by Contractor of Contractor's obligations under the Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a Subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

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

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

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of

- 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
  4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
  5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
  6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
  7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Contractors, whether such programs or activities are Federally funded or not);
  8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
  9. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
  10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
  11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
  12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

#### **14.4 Clean Air and Water Pollution Control**

Contractor agrees to comply with all applicable standards, orders, and

regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Contractor must include this requirement in all subcontracts that exceeds \$150,000.

#### **14.5 Certification of Contractor Regarding Debarment**

By submitting a bid/proposal under this solicitation, the Contractor certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

##### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

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

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

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

#### **14.6 Disadvantaged Business Enterprise**

The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;

2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the Contractor from future bidding as non-responsible.

**Prompt Payment (§26.29)** – The Contractor agrees to pay each Subcontractor under the Agreement for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment. The Contractor agrees further to return retainage payments to each Subcontractor within thirty (30) days after the Subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Subcontractor. This clause applies to both DBE and non-DBE Subcontractors.

#### **14.7 Texting When Driving**

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

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

#### **14.8 Certification Regarding Lobbying**

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

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

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

#### **14.9 Occupational Safety and Health Act of 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their Subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **14.10 Termination for Convenience**

City may, by written notice to the Contractor, terminate the Agreement for its convenience and without cause or default on the part of Contractor. Upon receipt of the notice of termination, except as explicitly directed by City, the Contractor must immediately discontinue all services affected.

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

City agrees to make just and equitable compensation to the Contractor for

satisfactory work completed up through the date the Contractor receives the termination notice.

Compensation will not include anticipated profit on non-performed services.

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

#### **14.11 Equal Opportunity Clause**

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination

clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **14.12 Certification of Contractor Regarding Tax Delinquency and Felony Convictions**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (☐) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

#### **CERTIFICATIONS**

1. The applicant represents that it is ☐ is not ☐ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
2. The applicant represents that it is ☐ is not ☐ is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

#### **Term Definitions**

Felony conviction: Felony conviction means a conviction within the preceding

twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

**Note:**

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

#### **14.13 Trade Restriction Certification**

By submission of award, the Contractor certifies that with respect to this solicitation and any resultant Agreement, the Contractor –

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

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

The Contractor must provide immediate written notice to the AIRPORT if the Contractor learns that its certification or that of a Subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The

Contractor must require Subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no Agreement shall be awarded to a Contractor or Subcontractor:

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

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

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

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

#### **14.14 Right to Inventions**

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and City in any resulting invention as established by 37 CFR 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This Agreement incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

#### **14.15 Veteran's Preference**

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

## **ARTICLE XV – GENERAL PROVISIONS**

### **15.1 Applicable Law.**

Contractor shall comply with all applicable municipal, county, state, and federal laws, ordinances, rules, and regulations. Contractor, to the extent Contractor may legally do so, hereby consents to the jurisdiction of the courts of the State of New Hampshire and the United States District Court of the State of New Hampshire, as well as to the jurisdiction of all courts from which an appeal may be taken from such courts for the purposes of any suit, action, or other proceedings arising out of any of the obligations hereunder or with respect to the transactions contemplated hereby, and expressly waives any and all objections Contractor may have to venue in any such courts.

### **15.2 Severability.**

The determination by a court of competent jurisdiction and venue that any one or more of the terms, clauses, or provisions of the Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other term, clause, or provision of the Agreement. If any part of the Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

### **15.3 Entire Agreement.**

This Agreement and the Exhibits attached hereto and incorporated herein shall constitute the entire agreement between the parties hereto and no part hereof may be changed, altered, amended, modified, limited, or extended orally or by agreement between the parties unless such agreement is expressed in writing and signed by City and Contractor or their respective assigns. Any previous agreement, assertion, statement, understanding, or other commitment before the date of the Agreement, whether written or oral, shall have no force or effect. This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding the Agreement.

### **15.4 Interpretation.**

The captions of the Sections of the Agreement are to assist the parties in the reading of the Agreement and are not a part of the terms or provisions of the Agreement.

Whenever required by the context of the Agreement, the singular shall include the plural and the plural shall include the singular. The masculine, feminine, and neuter genders shall each include the other. In any provision relating to the conduct, acts, or omissions of Contractor, the term “Contractor” shall include Contractor’s agents, employees, contractors, or successors. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that the Agreement was prepared by one party, it being recognized that City and Contractor have had the opportunity to consult with counsel prior to executing the Agreement. If any term of the Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

### **15.5 Counterparts.**

This Agreement may be executed in any number of counterparts, or counterpart signature pages, with the same effect as if all of the signatures on such counterparts appeared on one document, and each such counterpart shall be deemed to be an original document.

### **15.6 Force Majeure.**

Neither City nor Contractor shall be deemed in violation of the Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control, and the time for performance shall be automatically extended by the period the party is prevented from performing its obligations hereunder.

### **15.3 Continuing Liability of Contractor**

Contractor shall, regardless of any assignment, remain directly and primarily liable to City for the performance of all of the covenants, duties, and obligations of Contractor hereunder, and Contractor shall assume and be liable to City for any and all acts and omissions of any and all assignees. City shall be permitted to enforce the provisions of the Agreement against Contractor or any assignee without demand upon or proceeding in any way against any other party.

**IN WITNESS WHEREOF**, this Airport Master Planning Services Agreement has been entered into as of the Effective Date.

**City of Manchester,  
Department of Aviation  
("City")**

By: \_\_\_\_\_  
Thomas J. Malafronte, A.A.E.  
Airport Director

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

**[Insert Company Name]  
("Contractor")**

By: \_\_\_\_\_  
\_\_\_\_\_, Duly Authorized

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

SAMPLE