

SERVICE AGREEMENT NO. 6017

Integration and Installation of Flight Information Display System

THIS **Integration and Installation of Flight Information Display System Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Infax, Inc. ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Integration and Installation of Flight Information Display System in response to Request for Bid/Proposal No. 6017 ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

1. **Scope.** Contractor will provide Integration and Installation of Flight Information Display System ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.

2. **Term.**

(A) The Term of this Agreement is five years beginning on the date provided in the Notice to Proceed from the Contract Administrator or the City's Procurement Division. The parties may mutually extend the term of this Agreement for up to five additional one-year periods ("Option Period(s)"), provided, the parties do so in writing prior to the expiration of the original term or the then-current Option Period.

(B) At the end of the Term of this Agreement or the final Option Period, the Agreement may, at the request of the City prior to expiration of the Term or final Option Period, continue on a month-to-month basis for up to six months with compensation set based on the amount listed in Attachment B for the Term or the final Option Period. The Contractor may opt out of this continuing term by providing notice to the City at least 30 days prior to the expiration of the Term or final Option Period. During the month-to-month term, either Party may terminate the Agreement upon 30 days' written notice to the other Party.

- 3. Compensation and Payment.** This Agreement is for an amount not to exceed \$399,207.00, subject to approved extensions and changes. Payment will be made for Services performed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next Option Period.

Invoices must be mailed to the following address with a copy provided to the Contract Administrator:

City of Corpus Christi
Attn: Accounts Payable
P.O. Box 9277
Corpus Christi, Texas 78469-9277

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Barb Minor
IT Department
Phone: 361-826-3524
Email: barbm@cctexas.com

5. Insurance; Bonds.

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as

may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

- 6. Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.
- 7. Inspection and Acceptance.** Any Services that are provided but not accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.
- 8. Warranty.**

 - (A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.
 - (B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.
 - (C) Contractor warrants that all Services will be performed in accordance with the standard of care used by similarly situated contractors performing similar services.
- 9. Quality/Quantity Adjustments.** Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.

- 10. Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.
- 11. Independent Contractor.** Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.
- 12. Subcontractors.** In performing the Services, Contractor will not enter into subcontracts or utilize the services of subcontractors.
- 13. Amendments and Changes.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City. Any changes that alter the method, price, or schedule of work must be allowable, allocable, within the scope of any federal grant or cooperative agreement, and reasonable for the completion of the project scope.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Barb Minor, IT Business Analyst III
Information Technology
1201 Leopard St., Corpus Christi, Texas 78401
Phone: 361-826-3254
Fax: 361-826-1996

IF TO CONTRACTOR:

Infax, Inc.

Attn: Steve Moody
Director of New Business Development
1235 Old Alpharetta Rd., Suite 120, Alpharetta, Georgia 30005
Phone: 770-209-9925
Fax: 770-209-0671

17. CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) **Termination for Cause.** The City may terminate this Agreement for Contractor's failure to comply with any of the terms of this Agreement. The City must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City may terminate this Agreement immediately thereafter.

(B) **Termination for Convenience.** Alternatively, the City may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement. In the event of termination for convenience, the

Contractor will be compensated for all Services performed prior to the date of termination. The City shall have no further obligations to the Contractor.

- 19. Effect of Breach.** In addition to the remedy of termination, if the Contractor violates or breaches any provision of the Agreement, the City may pursue any other claims or causes of action available under the law. No specific sanctions or penalties apply to this Agreement except those that are otherwise available under the law.
- 20. Limitation of Liability.** The City's maximum liability under this Agreement is limited to the total amount of compensation listed in Section 3 of this Agreement. In no event shall the City be liable for incidental, consequential or special damages.
- 21. Assignment.** No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.
- 22. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 23. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
 - A. this Agreement (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. the Contractor's bid response (Exhibit 2).
- 24. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement.
- 25. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.

- 26. Public Information Act Requirements.** This paragraph applies only to agreements that have a stated expenditure of at least \$1,000,000 or that result in the expenditure of at least \$1,000,000 by the City. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
- 27. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.
- 28. Federal Funding Requirements.** This project is subject to requirements provided for the Federal Aviation Administration (FAA) and/or other federal agencies. A set of Federal Requirements has been attached as Attachment E, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. The Contractor must comply with Attachment E while performing the Services. The Contractor will insert in any subcontracts all Federal Provisions/Requirements contained in the Agreement, such other clauses as the FAA, or its designee may by appropriate instructions require and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses.

[Signature Page Follows]

CONTRACTOR

Signature: David Michael Davis
David Michael Davis (Mar 11, 2025 16:26 EDT)

Printed Name: David Michael Davis

Title: Chairman of the Board

Date: 03/11/2025

CITY OF CORPUS CHRISTI

Sergio Villasana
Director, Finance & Procurement

Date: _____

APPROVED AS TO LEGAL FORM

Assistant City Attorney Date

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance and Bond Requirements
- Attachment D: Warranty Requirements
- Attachment E: Federal Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB/RFP No. 6017
- Exhibit 2: Contractor's Bid/Proposal Response

Attachment A: Scope of Work

1.1 General Requirements

The Contractor shall provide integration and installation of Flight Information Display System to the Corpus Christi International Airport (CCIA), which is owned and operated by the City of Corpus Christi.

The Contractor shall have qualified, financially stable, and innovative operators to provide digital airport systems to include:

- A. Flight Information Display System (FIDS) to display flight arrival and departure information in real-time throughout the terminal, airport website, and other digital or physical locations. Future physical locations may include but not limited to airport cell phone lots, TNC staging lot, gas stations, hotel lobby, or International Terminal (FIS).
- B. Baggage Information Display System (BIDS) to display arrival flight information in terminal baggage claim and international arrival facility. CCIA has two baggage belts in baggage claim and one baggage belt in the international arrivals area. The information should be able to easily identify which airline is placing bags on which gate.
- C. Common use Passenger Processing System (CUPPS/CUSS) to be installed at two ticket counters and two common use gates. Each workstation must include computer system, auxiliary printers and scanners, boarding equipment, and any other capabilities to facilitate complete check-in and boarding processes for any domestic or international flight by any major airline. CUSS 2.0 required. CUSS 1.0 no longer supported after 2026. Transition starting January 1, 2024.

1.2 Minimum Development Requirements – see Exhibit 1

A. Flight Information Display System (FIDS)

- 1. The Contractor will have the ability to automatically pull flight arrival and departure information for CCIA and display it on digital screens throughout the terminal building.
- 2. The Contractor will Integrate into CCIA website to display real-time information for arrivals and departures.
- 3. The Contractor will have the ability to edit information as needed.
- 4. The Contractor will have visual paging.
- 5. The Contractor must be able to display additional information such as mandated messages, real-time weather delays, gate changes, etc.

6. The Contractor must be able to have timed sequencing for rolling displays.
7. The Contractor must have access to full system and management reporting.
8. The Contractor must provide a solution to implement visual paging for public address and emergency alarms.

B. Baggage Information Display System (BIDS)

1. The Contractor must have the ability to display arrival flight information on digital screens above each bag belt in baggage claim and international arrivals area.
2. The Contractor must control screen outside the terminal adjacent to the baggage belt loading area, with the ability for the airline ramp agent to enter the flight information manually or select from a pre-loaded screen of arrivals.
3. The Contractor will have the ability for remote access via online login, so airport operations staff can edit or enter arrival information for display.

C. Gate Information Display System

The Contractor must have an airport display with flight information and gate number displaying between flights.

D. Standard Use Terminal Equipment

1. The Contractor will provide all infrastructure to accurately display flight information on the airport website, mobile app, and displays around the airport facility. Digital content may include but is not limited to airport generated content, website URL's, or streamed or USB content, queue management system content, baggage carousel content, gate and tick counter content.
2. Systems may include, but are not limited to CCIA website, mobile app, weather feed, airline flight information, baggage carousel, paging system, airline provided content, and advertising content.
3. The Contractor will install two computer stations at the common-use ticket counter with software that will allow an airline to log into its own proprietary system and process passengers.

4. The Contractor will install one computer station at two common-use gates in the airport concourse. The computer station must have the same login capabilities.
5. The Contractor will conduct system training for CCIA staff and deliver staff training for optimal system use.
6. The system must be compatible with all major airlines and update in real-time with airport system updates.
7. A digital screen above the workstation must accompany each ticket counter computer system to identify the airline for each ticket counter.
8. Each gate counter must have a digital screen above the workstation to identify each gate's airline and flight information.
9. Each gate computer must have a ticket scanner compatible with both printer tickets and mobile devices.
10. The system must be capable of future growth. This includes all ticket counter and gate counter stations across the airport.

1.3 IT Requirements

- A. The Contractor must have Microsoft Windows OS 11 Pro, or Microsoft Servicer 2019 or higher.
- B. The Contractor must have Intel Core i5 or higher.
- C. The Contractor must have 802.11 ac (or better) Wi-Fi capability.
- D. The Contractor must have a Display port or HDMI ports.
- E. The Contractor must have USB-A or USB-C ports.
- F. The Contractor must have 8-16 GB of RAM.
- G. The Contractor must have 240 GB solid state drive, or larger.
- H. The Contractor must provide 3-year on-site (better) or depot warranty, accidental damage service highly recommended.
- I. The Contractor will have ability to install City anti-virus and security software.
- J. The Contractor is able to support an op-prem solution.

Exhibit 1
Requirements

| FIDS | Flight Information Display System | Priority M / E / N | Vendor Response Y / M / N | Comments |
|-------------|---|-------------------------------|--|-----------------|
| 1. | CCIA must be able to automatically pull flight arrival and departure information for CCIA and display it on digital screens throughout all public and operational areas of the terminal facilities. | M | | |
| 2. | The system must integrate into the CCIA website to display real-time information for all arrivals and departures. Currently, we do a file transfer every minute to our website host. | M | | |
| 3. | CCIA needs to have the ability to edit information as needed. | M | | |
| 4. | CCIA needs "Visual Paging." We must integrate the IED PA system to display typed PA announcements on message screens. | M | | |
| 5. | CCIA must be able to display additional information as needed, such as TSA-required messages, real-time weather, delays, gate changes, etc. | M | | |
| 6. | CCIA must be able to have timed sequencing for rolling displays. | M | | |
| 7. | CCIA must have access to full system and management reporting. | M | | |
| 8. | Proposer must provide solution to implement visual paging for public address and emergency alarms. | M | | |
| BIDS | Baggage Information Display System | | | |
| 1. | CCIA needs the ability to display arrival flight information on digital screens above each bag belt in both the baggage claim area and international flight arrival areas. | M | | |
| 2. | CCIA must control the screen outside the terminal adjacent to the baggage belt loading area. We must allow the airline ramp agent to either enter the flight information manually or be able to select it from a pre-loaded screen of arrivals. | M | | |
| 3. | CCIA-authorized personnel must have the ability to have remote access via an online login. This access will allow CCIA Operations staff to enter or edit arrival information for display in the terminal. | M | | |
| GIDS | Gate Information Display System | | | |
| 1. | CCIA must have an airport display with flight information and gate number displaying between flights. | M | | |
| | Self-Baggage Drop Kiosk | | | |
| 1. | CCIA needs the installation of one self-service baggage drop kiosk with the option to expand to include additional kiosks in the future. | M | | |
| 2. | The kiosk must allow passengers to enter all applicable identifying information and print all baggage tags. | M | | |
| 3. | The kiosk must provide all information about each tagged piece of luggage, be included in the CUPPS system for flight processing, and be compatible with all airline systems to prevent any lost luggage. | M | | |
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Priority

M = Must Have

E = Expected to Have

N = Nice to Have

Y = Yes without modification

M = Yes with modification

N = Not available or included

Exhibit 1
Requirements

| Standard Use Terminal Equipment | | | | |
|---------------------------------|--|---|--|--|
| 1. | The vendor shall provide all infrastructure to accurately display flight information on the airport website, mobile app, and displays around the airport facility. Digital content may include but is not limited to airport generated content, website URL's, or streamed or USB content, queue management system content, baggage carousel content, gate and ticket counter content. | M | | |
| 2. | Systems that will require integration may include, but are not limited to CCIA website, mobile app, weather feed, airline flight information, baggage carousel, paging system, airline provided content, and advertising content. | M | | |
| 3. | CCIA needs the installation of two computer stations at the common-use ticket counter with software that will allow an airline to log into its own proprietary system and process passengers. | M | | |
| 4. | CCIA needs one computer station installed at two common-use gates in the airport concourse. This computer station must have the same login capabilities. | M | | |
| 5. | The system must be compatible with all major airlines and update in real-time with airport system updates. | M | | |
| 6. | A digital screen above the workstation must accompany each ticket counter computer system to identify the airline for each ticket counter. | M | | |
| 7. | Each gate counter must have a digital screen above the workstation to identify each gate's airline and flight information. | M | | |
| 8. | Each gate computer must have a ticket scanner compatible with both printer tickets and mobile devices. | M | | |
| 9. | CCIA requires the system to have the capability for future growth. This includes all ticket counters and gate counter stations across the airport. | M | | |
| IT Requirements | | | | |
| | Microsoft Windows OS 11 Pro, or Microsoft Server 2019 or higher | M | | |
| | Intel Core i5 or higher | M | | |
| | 802.11ac (or better) Wi-Fi capability | M | | |
| | DisplayPort or HDMI ports | M | | |
| | USB-A or USB-C ports | M | | |
| | 8-16 GB of RAM | M | | |
| | 240 GB solid state drive, or larger | M | | |
| | 3 year on-site (better) or depot warranty, accidental damage service highly recommended | M | | |
| | Ability to install City anti-virus and security software | M | | |
| | Able to support an on-prem solution | M | | |

Priority

M = Must Have

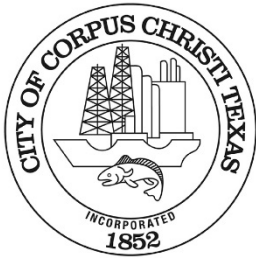
E = Expected to Have

N = Nice to Have

Y = Yes without modification

M = Yes with modification

N = Not available or included



Attachment B: Bid/Pricing Schedule
CITY OF CORPUS CHRISTI
Pricing Form
CONTRACTS AND PROCUREMENT

RFP No. 6017

**Integration and Installation of Flight Information
Display System (FIDS) at CCIA**

PAGE 1

DATE: 2/24/2025

Infax, Inc.

PROPOSER

Steve Moody
AUTHORIZED SIGNATURE

- 1. Refer to "Instructions to Proposers" and Contract Terms and Conditions before completing proposal.**
- 2. Provide your best price for each item.**
- 3. In submitting this proposal, Proposer certifies that:**
 - a. the prices in this proposal have been arrived at independently, without consultation, communication, or agreement with any other Proposer or competitor, for the purpose of restricting competition with regard to prices;
 - b. Proposer is an Equal Opportunity Employer; and the Disclosure of Interest information on file with City's Contracts and Procurement office, pursuant to the Code of Ordinances, is current and true.
 - c. Proposer has incorporated any changes issue through Addenda to the RFP in this pricing.

| Item | Description | Cost | Total |
|--------------|---|-----------------------------------|-------------------|
| 1 | Integration and installation to include: FIDS, BIDS, Self Service Baggage Drop Kiosk , CUPPS/CUSS | \$ 18,025 FIDS \$ 154,925 CUSS | \$ 172,950 |
| 2 | Software – Support and Maintenance – Year 1 | \$ 17,062 FIDS \$ 23,612 CUSS | \$ 40,674 |
| 3 | Software – Support and Maintenance – Year 2 | \$ 17,915 FIDS \$ 24,215 CUSS | \$ 42,130 |
| 4 | Software – Support and Maintenance – Year 3 | \$ 18,810 FIDS \$ 24,833 CUSS | \$ 43,643 |
| 5 | Software – Support and Maintenance – Year 4 | \$ 19,751 FIDS \$ 25,962 CUSS | \$ 45,713 |
| 6 | Software – Support and Maintenance – Year 5 | \$ 20,738 FIDS \$ 26,777 CUSS | \$ 47,515 |
| 7 | Training | \$ 6,582 | \$ 6,582 |
| Total | | | \$ 399,207 |

Attachment C: Insurance and Bond Requirements

A. CONTRACTOR'S LIABILITY INSURANCE

1. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
2. Contractor must furnish to the City's Risk Manager and Contract Administer one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

| TYPE OF INSURANCE | MINIMUM INSURANCE COVERAGE |
|--------------------|---|
| ERRORS & OMISSIONS | \$1,000,000 Per Occurrence \$1,000,000 Aggregate |

3. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

B. ADDITIONAL REQUIREMENTS

1. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
2. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
3. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

4. Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide 30 calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than 10 calendar days advance written notice for nonpayment of premium.
5. Within 5 calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
6. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
7. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
8. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.

9. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

No bond is required for this agreement.

2024 Insurance Requirements

Ins. Req. Exhibit **7-B**

IT Contracts - Software Support, Configuration, Implementation or Maintenance

05/10/2024 Risk Management – Legal Dept.

Attachment D: Warranty Requirements

1. The Contractor must provide 3-year on-site (better) or depot warranty.
2. Accidental damage service.

Attachment E: Federal Requirements

A1 BUY AMERICAN PREFERENCE

A1.1 SOURCE

Title 49 USC § 50101

A1.2 APPLICABILITY

The Buy American Preference requirement in 49 USC § 50101 requires that all steel and manufactured goods used on AIP projects be produced in the United States. The statute gives the FAA the ability to issue a waiver to a sponsor to use non-domestic material on an AIP funded project subject to meeting certain conditions. A sponsor may request that the FAA issue a waiver from the Buy American Preference requirements if the FAA finds that:

- 1) Applying the provision is not in the public interest;
- 2) The steel or manufactured goods are not available in sufficient quantity or quality in the United States;
- 3) The cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment, and final assembly has taken place in the United States. Items that have an FAA standard specification item number (such as specific airport lighting equipment) are considered the equipment.
- 4) Applying this provision would increase the cost of the overall project by more than 25 percent.

Timing of Waiver Requests. Sponsors desiring a Type 1 or Type 2 waiver must submit their waiver requests *before* issuing a solicitation for bids or a request for proposal for a project.

The sponsor must submit Type 3 or Type 4 waiver requests *prior* to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary and extenuating circumstances exist. The FAA cannot review waiver requests with incomplete information. Sponsors must assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action.

Buy American Conformance List. The FAA Office of Airports maintains a listing of equipment that has received a nationwide waiver from the Buy American Preference requirements or that fully meet the Buy American requirements. The Nationwide Buy American Waiver List is available online at www.faa.gov/airports/aip/buy_american/. Products listed on the Buy American Conformance list do not require additional submittal of domestic content information under a project specific Buy American Preference waiver.

Facility Waiver Requests. For construction of a facility, the sponsor may submit the waiver request after bid opening, but prior to contract execution. Examples of facility construction include terminal buildings, terminal renovation, and snow removal equipment buildings.

Contract Types –

Construction and Equipment – The sponsor must meet the Buy American Preference requirements of 49 USC § 50101 for all AIP funded projects that require steel or manufactured goods. The Buy America requirements flow down from the sponsor to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are also in compliance.

Note: The Buy American Preference does not apply to equipment a contractor uses as a tool of its trade and which does not remain as part of the project.

Professional Services – Professional service agreements (PSAs) do not normally result in a deliverable that meets the definition of a manufactured product. However, the emergence of various project delivery methods has created situations where task deliverables under a PSA may include a manufactured product. If a PSA includes providing a manufactured good as a deliverable under the contract, the sponsor must include the Buy American Preference provision in the agreement.

Property – Most land transactions do not involve acquiring a manufactured product. However, under certain circumstances, a property acquisition project could result in the installation of a manufactured product. For example, the installation of property fencing, gates, doors and locks, etc. represent manufactured products acquired under an AIP funded land project that must comply with Buy American Preferences.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully comply with 49 USC § 50101.

There are two types of Buy American certifications. The sponsor must incorporate the appropriate "Certificate of Buy America Compliance" in the solicitation:

- Projects for a facility (buildings such as terminals, snow removal equipment (SRE) buildings, aircraft rescue and firefighting (ARFF) buildings, etc.) – Insert the Certificate of Compliance Based on Total Facility.
- Projects for non-facility development (non-building construction projects such as runway or roadway construction or equipment acquisition projects) – Insert the Certificate of Compliance Based on Equipment and Materials Used on the Project.

A1.3 SOLICITATION CLAUSE

The sponsor must include this clause in:

- 1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; and
- 2) All sponsor proposals for negotiated agreements **regardless of funding source.**

A1.3.1 Title VI Solicitation Notice

Title VI Solicitation Notice:

The **City of Corpus Christi**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, [select disadvantaged business enterprises or airport concession 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 for an award.

A2 DEBARMENT AND SUSPENSION

A2.1 SOURCE

2 CFR part 180 (Subpart C)

2 CFR part 1200

DOT Order 4200.5

A2.2 APPLICABILITY

The sponsor must verify that the firm or individual that it is entering into a contract with is not presently suspended, excluded, or debarred by any Federal department or agency from participating in federally assisted projects. The sponsor accomplishes this by:

- 1) Checking the System for Award Management (SAM.gov) to verify that the firm or individual is not listed in SAM.gov as being suspended, debarred, or excluded;
- 2) Collecting a certification from the firm or individual that it is not suspended, debarred, or excluded; and
- 3) Incorporating a clause in the contract that requires lower tier contracts to verify that no suspended, debarred, or excluded firm or individual is included in the project.

Contract Types – This requirement applies to *covered transactions*, which are defined in 2 CFR part 180. AIP funded contracts are non-procurement transactions, as defined by §180.970. Covered transactions include any AIP-funded contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the amount of the contract is expected to equal or exceed \$25,000. This includes contracts associated with land acquisition projects.

Use of Provision – No mandatory language provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 2 CFR part 180. For professional service agreements, sponsor may substitute bidder/offeror with consultant.

A2.3 SOLICITATION CLAUSE

A2.3.1 Bidder or Offeror Certification

CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT

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

A2.3.2 Lower Tier Contract Certification

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.

A3 TRADE RESTRICTION CERTIFICATION

A3.1 SOURCE

49 USC § 50104

49 CFR part 30

A3.2 APPLICABILITY

Unless waived by the Secretary of Transportation, sponsors may not use AIP funds on a product or service from a foreign country included in the current list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR).

Contract Types – The trade restriction certification and clause applies to all AIP funded projects.

Use of Provision – MANDATORY TEXT. 49 CFR part 30 prescribes the language for this model clause. The sponsor must include this certification language in all contracts and subcontracts without modification.

A3.3 SOLICITATION CLAUSE

TRADE RESTRICTION CERTIFICATION

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

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

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the 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 Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

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

A4 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

A4.1 SOURCE

31 USC § 1352 – Byrd Anti-Lobbying Amendment

2 CFR part 200, Appendix II(J)

49 CFR part 20, Appendix A

A4.2 APPLICABILITY

Consultants and contractors that apply or bid for an award of \$100,000 or more must certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

Contract Types – The sponsor must incorporate this provision into all contracts exceeding \$100,000.

Use of Provision – MANDATORY TEXT. Appendix A to 49 CFR Part 20 prescribes language the sponsor must use. The sponsor must incorporate this provision without modification.

A4.3 CONTRACT CLAUSE

CERTIFICATION REGARDING LOBBYING

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

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

A5 TAX DELINQUENCY AND FELONY CONVICTIONS

A5.1 SOURCE

Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76), and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 - Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

A5.2 APPLICABILITY

The sponsor must ensure that no funding goes to any contractor who:

- Has been convicted of a Federal felony within the last 24 months; or
- Has any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

Contract Types – This provision applies to all contracts funded in whole or part with AIP.

Use of Provision – The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of DOT Order 4200.6.

A5.3 CONTRACT CLAUSE

CERTIFICATION OF OFFERER/BIDDER 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.

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.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twentyfour (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.

A6 TERMINATION OF CONTRACT

A6.1 SOURCE

2 CFR § 200 Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

A6.2 APPLICABILITY

Contract Types – All contracts and subcontracts in excess of \$10,000 must address *termination for cause* and *termination for convenience* by the sponsor. The provision must address the manner (i.e. notice, opportunity to cure, and effective date) by which the sponsor's contract will be affected and the basis for settlement (i.e. incurred expenses, completed work, profit, etc.).

Use of Provision –

Termination for Default – **MANDATORY TEXT.** Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for Termination for Default under a construction contract. The sponsor must not make any changes to this standard language.

Termination for Convenience – No mandatory text provided. The sponsor must include a clause for termination for convenience. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of Appendix II to 2 CFR part 200.

Equipment, Professional Services, and Property – No mandatory text provided. The sponsor may use their established clause language provided that it adequately addresses the intent of Appendix II(B) to Part 200, which addresses termination for fault and for convenience.

A6.3 CONTRACT CLAUSE

A6.3.1 Termination for Convenience

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

- 1) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- 2) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- 3) reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- 4) reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

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

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

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

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

A6.3.2 Termination for Default

TERMINATION FOR DEFAULT (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights, and remedies associated with Owner termination of this contract due to default of the Contractor.

TERMINATION FOR DEFAULT (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract if the Contractor:

1. Fails to commence the Work under the Contract within the time specified in the Notice-to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;

4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the Work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience of the Owner.

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

TERMINATION FOR DEFAULT (PROFESSIONAL SERVICES)

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

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

- a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
1. Perform the services within the time specified in this contract or by Owner approved extension;
 2. Make adequate progress so as to endanger satisfactory performance of the Project; or
 3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs,

estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

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

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

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

b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:

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

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

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