

**BASE CONTRACT
BETWEEN
AVIATION, INC.
AND
TOOELE COUNTY – WENDOVER AIRPORT
WENDOVER, UT**

Tooele County – Wendover Airport (the “Sponsor”), agrees to retain the firm of Aviation, Inc. (the “Engineer”) to perform the scope of engineering services as outlined below at the Tooele County – Wendover Airport (the “Site”). The term of this Base Contract (the “Contract”) shall become effective upon execution by the parties and will remain in effect for five years or as terminated in accordance with the terms below.

SECTION 1. The Project.

1.1 This Contract is for engineering services at the Site, which may include the following items (collectively, the “Project”):

1. Equipment purchases: (Snow Plow, wide broom, etc.).
2. Overlay Taxiway A1.
3. Ramp improvements (remove and replace concrete and/or asphalt sections).
4. Terminal upgrades and parking lot rehabilitation, and new parking lot areas.
5. Overlay and refurbishment of the two existing runways.
6. Assist Wendover Airport in developing and documenting the 5-year CIP required by the FAA and the Utah Aeronautics division.
7. Assist with developing the Wendover DBE plan and other federally required documents.

SECTION 2. The Services.

The engineering services to be provided in connection with the Project will be specified in an Amendment to this Contract, a sample of which is attached as Exhibit A hereto, or a Statement of Work (an “SOW”) accompanying such Amendment (such services collectively, when and as specified in Amendments and SOWs, the “Services”).

2.1 Basic Services. Engineer shall:

2.1.1 Assist the Sponsor in the preparation of the pre-application, program sketch, program narrative, and engineer’s estimate, required statements and notifications, the environmental documentation, and state and regional reviews as required.

2.1.2 Consult/coordinate with the airport authority, airport staff, the Federal Aviation Administration (“FAA”), users, city, county, and other interested parties;

2.1.3 Review, and revise as necessary, the airport drawings which provide the basis for the project design;

2.1.4 Prepare preliminary Plans and Specifications and cost estimates for the design and construction;

2.1.5 Provide an acceptable airport layout plan, including exhibits and associated drawings, as required;

2.1.6 Prepare and submit final Plans and Specifications and other contract documents for approval by the Sponsor and (as required) to the FAA prior to advertising for bids;

2.1.7 Prepare a design engineer's report, including estimates of final quantities and opinion of probable construction costs. The report will be submitted with the final Plans and Specifications to the Sponsor and when applicable to the FAA;

2.1.8 Prepare or assist in the preparation of an application for federal funds and a property map;

2.1.9 Coordinate the establishment of bid proposals into schedules to allow flexibility of award to match the funds available;

2.1.10 Provide complete sets of approved Plans and Specifications and other contract documents for bidding the project;

2.1.11 Arrange for and conduct a pre-bid conference and job showing;

2.1.12 Assist with the bid opening and processing of bid documents and make recommendations to the Sponsor for award of contract schedules;

2.1.13 Perform miscellaneous engineering services, e.g. hydrology studies, as requested by airport management.

2.2 Special Services. The Engineer may also provide the following special Services:

2.2.1 Soils and pavement investigations (for design), including performing soils and/or pavement testing and investigation of proposed construction areas as required for design.

2.2.2 Topographic surveys (for design), including performing topographic surveys of proposed construction areas as required for design.

2.2.3 Construction administration, including administering proposed construction activity.

2.3 Field Engineering Services. This Section 2.3 shall apply only if engineering coordination services are included within an Amendment. In such case, Engineer shall arrange for and conduct a pre-construction conference, and shall provide complete resident engineering coordination of the construction work on the Project,

with sufficient qualified inspectors, who shall be present during all construction operations, to observe that construction is accomplished in accordance with the Plans and Specifications. It is expressly understood that the term "engineering coordination" does not mean that the Engineer will assume any responsibility that replaces in any way the duties and authority of a construction superintendent or other contractor charged with responsibility for the construction operation, including ways or means of construction or job site safety.

2.3.1 The Engineer, in carrying out his responsibilities for engineer coordination, shall endeavor to guard the Sponsor against defects and deficiencies in the permanent work constructed by the contractor, but does not in any way guarantee the performance of the contractor. The provisions of this Section 2.3 do not limit or modify Engineer's duty to act in accordance with the professional standards set forth in Section 7 below.

2.3.2 Whenever the Engineer considers it necessary or advisable in endeavoring to guard the Sponsor against defects and deficiencies in the work constructed by the contractor, the Engineer shall have the authority to provide surveys and to observe and check surveys conducted by the contractor.

2.3.3 The Engineer shall conduct materials tests required by the FAA and observe and evaluate all such tests made by the contractor in the field and in the laboratory as necessary in accordance with the Plans and Specifications. Copies of all test reports will be furnished to the Sponsor and the FAA. Test results will be available on the day tests are taken.

2.3.4 The Engineer shall act as the Sponsor's agent during construction to protect the Sponsor's interest and shall have the authority to recommend to the Sponsor that the construction be stopped if not in accordance with the Plans and Specifications. The Engineer will furnish the Sponsor and the FAA a weekly construction progress and inspection report if requested.

2.3.5 The Engineer shall prepare all addition and deletion change orders and supplemental agreements as required. After acceptance of a construction contract by the contractor, copies will be submitted to the Sponsor and the FAA for approval and signature before proceeding with the work.

2.3.6 The Engineer shall prepare periodic estimates during the construction of the Project and shall prepare the final estimate when the work is completed. Periodic estimates shall be submitted regularly to the Sponsor for the concurrence and submittal to the FAA for Federal participation payment requests.

2.3.7 The Engineer shall review the submitted weekly contractor's payrolls, check shop drawings, and construction submittal; and prepare and maintain necessary records of construction progress.

2.3.8 When the Project has been completed and is ready for final acceptance, the Engineer shall arrange for inspection of the finished work by the FAA,

the Sponsor, the contractor, and the Engineer, following which the final estimate for the work will be considered by the Sponsor.

2.3.9 Upon acceptance of the Project, the Engineer shall prepare record drawings, including any field surveying required to compute final quantities, and a construction engineering report, and shall provide the Sponsor and the FAA with one (1) set of reproducible record drawings, one electronic copy and one (1) copy of the construction report. These documents shall be provided in both hard copy and in an acceptable electronic format to the Sponsor.

2.3.10 On completion of the Project, the Engineer shall prepare and supply the Sponsor with an airport pavement maintenance program for the improvements constructed under the Project.

SECTION 3. Compensation.

The Sponsor shall pay Engineer the consideration set forth in each Amendment; which consideration shall constitute complete payment for all Services furnished in connection with the work required to be performed under the Amendment.

3.1 Method of Compensation. Each Amendment shall specifically identify the Services, the type of compensation, the applicable rates, and the reimbursable expenses.

3.1.1 For performance of Services included in each "Lump Sum" Amendment, which shall be defined and delineated in advance, payment to the Engineer will be made on the basis of a lump sum. The agreed lump sum shall represent full payment for all payroll, overhead, profit, and other direct non-salary expenses as hereinafter described. The lump sum will not increase nor decrease unless there is a Change in Scope (as defined below). In that event, the lump sum would be subject to re-negotiation, and Engineer will prepare and submit a supplemental Amendment for Sponsor's approval.

3.1.2 For performance of Services described in each "Cost Reimbursable" Amendment, the Sponsor shall pay Engineer the rates for the applicable individual performing the Services *multiplied by* the number of hours employed on a specific project.

(A) The rates will be on a project by project basis.

(B) The hourly fee schedule will only be utilized for specific minor items of work performed as special services.

3.2 Expenses. Sponsor shall pay all publishing costs for advertisements of notices, public hearings, requests for bids, and other similar items; shall pay for all permits and licenses that may be required by local, state, or federal authorities; and shall secure the necessary land, easements, and rights-of-way required for the Project.

3.3 Payment Schedule.

3.3.1 For performance of the Services described in each Amendment, Sponsor shall pay the compensation set forth in such Amendment in monthly increments over the period of performance of the Services, based on percentage completed unless other specific payment schedules are mutually agreed to and set forth in the Amendment.

3.3.2 Payments for all Services performed pursuant to executed Amendments shall be due within thirty (30) days after the receipt of invoices. If the Sponsor disputes any portion of an invoice, it shall not be relieved of the responsibility of paying the undisputed portion thereof.

3.4 Changes in Scope.

3.4.1 It is mutually understood and agreed that the Sponsor will compensate Engineer for Services resulting from significant changes in general scope of the Project or its design, including changes in size, complexity, project schedules, character of construction, revisions to previously accepted studies, reports, design documents for contract documents and for preparation of documents for separate bids (collectively, "Changes in Scope"), only when:

(A) Such revisions are due to causes beyond the Engineer's control,

(B) The Sponsor has authorized the additional work in an executed Amendment.

3.4.2 Compensation for such extra work when authorized by the Sponsor shall be established in each Amendment.

3.5 Approval of Plans and Specifications. The Sponsor agrees to cooperate with the Engineer in the approval of all Plans and Specifications, or should they disapprove of any part of said Plans and Specifications, shall make a timely decision in order that no undue expense will be caused the Engineer because of lack of decisions. If the Engineer is caused to incur other expenses such as extra drafting, due to changes ordered by the Sponsor after completion and approval of the Plans and Specifications, the Engineer shall be equitably paid for such extra expenses and services involved.

SECTION 4. Contract Documents.

4.1 For purposes of this Contract, the "Plans and Specifications" means all engineering designs, plans, drawings, specifications, and other reports that the Engineer delivers to the Sponsor in connection with the Project.

4.2 Technical Information. The Sponsor shall make available to the Engineer all technical data that is in the Sponsor's possession including maps, surveys, property

descriptions, borings, and other information required by the Engineer and relating to the Site, the Project, and the Services.

4.3 Approval of Plans. The Sponsor shall cooperate with the Engineer in the approval of the Plans and Specifications, or should any part of such Plans and Specifications be disapproved, shall make a timely decision in order that no undue expense will be caused the Engineer because of lack of decisions. If the Engineer is caused to incur other expenses such as extra drafting, due to changes ordered by the Sponsor after completion and approval of the plans and specifications, the Engineer shall be equitably paid for such extra expenses and services involved.

4.4 Construction Cost Opinion. Upon request by Sponsor, the Engineer shall prepare an opinion of probable construction costs, representing Engineer's reasonable judgment as a design professional (a "Cost Report"). Such Cost Report shall be provided for Sponsor's internal use and guidance only, and under no circumstances does Engineer guarantee the accuracy of the Cost Report as compared to contractor bids or actual cost to the Sponsor. Sponsor acknowledges that Engineer has no control over the actual costs of labor or materials, or over competitive bidding or market conditions.

4.5 Ownership of Plans. The original Plans and Specifications shall remain the property of the Engineer. The Sponsor may not reuse the Plans and Specifications for any purpose other than the Project except upon (A) prior written consent of Engineer, and (B) Sponsor's agreement to indemnify, defend and hold Engineer harmless for any liability resulting from such reuse.

4.6 Delivery of Plan. The Engineer shall deliver to the Sponsor: (A) one (1) hard-copy of the final Plans and Specifications, and (B) the final Plans and Specifications in electronic form, in a reproducible and modifiable format as reasonably requested by the Sponsor (such as, for example, AutoCAD, MicroStation or other computer aided design files).

SECTION 5. Federal Compliance.

Engineer represents and covenants to Sponsor as follows:

5.1 The Sponsor, the FAA, and the Comptroller General of the United States or any of their designated representatives shall have access to any books, documents, papers and records of the Engineer which are directly pertinent to the grant program for the purpose of audit examination, excerpts, and transcriptions.

5.2 The Engineer has formulated, adopted, and actively maintains an affirmative action plan in compliance with Executive Order No. 11246 entitled, "Equal Employment Opportunity." The Engineer does not discriminate on the basis of race, color, religion, creed, national origin, sex or age. Goals and targets are specified in the affirmative action plan to assure its implementation.

5.3 All services performed shall be in conformance with any and all applicable rules and regulations of the FAA.

5.4 It is the policy of the DOT that "Disadvantaged Business Enterprises" (as defined in 49 CFR Part 26) shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds, and the requirements of 49 CFR Part 6 shall apply to this Contract.

5.5 The Engineer shall ensure that Disadvantaged Business Enterprises have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. In this regard, all Contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform in the award and performance of DOT-assisted contracts.

SECTION 6. Insurance.

6.1 The Engineer shall procure and maintain at its expense during the effective period of this Contract the following insurance from insurance companies authorized to do business in the State in which the Site is located, covering all operations and services under this Contract performed by Engineer.

6.1.1 Worker's compensation and Employer's Liability insurance in accordance with the provisions of applicable law.

6.1.2 Commercial general liability in amounts not less than \$2 million combined single limit per occurrence and \$4 million aggregate for bodily injury, personal injury, and property damage with endorsements to include contractual liability. Engineer shall name Client as Additional Insured for ongoing operations, to the extent permitted by law. Coverage shall be primary.

6.1.3 Automobile liability, bodily injury and property damage with a limit of \$1 million for occurrence, combined single limit including owned, hired and non-owned autos.

6.1.4 Professional liability insurance in amounts not less than \$2 million per claim and annual aggregate.

6.2 The Engineer shall furnish to the Sponsor a certificate or certificates of insurance showing compliance with this Section 6.

6.2.1 To the extent commercially available to Aviation from its current insurance company, insurance policies required under subsection shall contain a provision that the insurance company or its designee must give the Client written notice transmitted in paper or electronic format: (a) 30 Days before coverage is non-renewed by the insurance company and (b) within 10 Business Days after cancellation of coverage by the insurance company.

SECTION 7. Standard of Care.

7.1 The Services shall be performed in accordance with that degree of care and skill ordinarily exercised by members of the engineering profession, performing similar services in the same locality, and under the same or similar circumstances and conditions as of the date that such Services are performed. Engineer's sole liability to Sponsor for any non-conforming Services or work shall be to correct the defective item.

7.2 The remedies provided above are the Sponsor's sole remedies for any failure of Engineer to comply with its obligations. Correction of any nonconformity or reimbursement to Sponsor in the manner and for the period of time provided above shall constitute complete fulfillment of all the liabilities of the Engineer for defective or nonconforming Services, whether the claims of the Sponsor are based in contract, in tort (including negligence and strict liability), or otherwise with respect to or arising out of work performed hereunder.

SECTION 8. Force Majeure.

Any delay or failure of engineer in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God, war, riot, strike, fire, storm, flood, windstorm, discovery or uncovering of hazardous or toxic materials or causes beyond the reasonable control of the Engineer, provided that prompt written notice of such delay or suspension given by the Engineer to the Sponsor. Upon receipt of said notice, if necessary, the time for performing shall be extended for a period of time reasonably necessary to overcome the effect of such delays and Engineer shall be reimbursed for the cost of such delays.

SECTION 9. Termination.

9.1 Termination by Sponsor. Upon five (5) business days written notice to Engineer, Sponsor may terminate the Engineer's right to proceed further with the Project and Services under this Contract or any Amendment. In the event of such termination, Sponsor may take possession of the Project in such manner as Sponsor may deem expedient, but Engineer shall not be liable to the Sponsor for any excess cost of completion of any Services, Sponsor shall reimburse the Engineer for all costs associated with the cessation of Services, plus that portion of the Services performed prior to the date of such termination, and Sponsor shall thereafter assume all obligations, commitments, or other liabilities that the Engineer shall have theretofore incurred or made in connection with its performance of the Services and for which Engineer has not been paid and released.

9.2 Termination by Engineer. If work on the Project shall be delayed for more than 30 calendar days of account of one or more of the occurrences set forth in Section 8, or if Sponsor shall fail to pay the Engineer in accordance with the terms of Section 3, the Engineer may, at its option, upon five (5) business days written notice to Sponsor, terminate this Contract. In the event of any such termination, Sponsor shall reimburse the Engineer for all costs of performance of the Services as the Engineer may

have incurred on account of such delays. Sponsor shall thereafter assume all obligations, commitments, or other liabilities that Engineer shall have previously incurred or made in connection with its performance of the Services and for which the Engineer has not been paid and released.

9.3 Termination Without Cause. Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. In the case of such termination, Engineer shall be paid for all Services performed prior to the termination date.

SECTION 10. Liability.

10.1 General Liability Indemnification. Each party (the "Indemnifying Party") to the fullest extent permitted by law, shall indemnify, defend, and hold harmless the other party (the "Indemnified Party") their consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Indemnifying Party, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

10.2 Professional Liability Indemnification. To the fullest extent permitted by applicable law, the Engineer agrees to indemnify and hold the Client harmless from and against any liabilities, claims, damages and costs (including reasonable attorney's fees) to the extent caused by the negligence of the Engineer in performance of professional services under this Agreement. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations

10.3 Damages Waiver. Neither party to this Contract shall be liable to the other for any indirect, incidental, consequential, exemplary, punitive or special damages or loss of income, profit or savings of any party, including third parties, arising directly or indirectly from the parties' relationship under this Contract or applicable law, including claims based on contract, equity, negligence, intended conduct, tort, or otherwise (including breach of warranty, negligence, and strict liability in tort).

SECTION 11. Miscellaneous.

11.1 Interpretation. In this Contract, unless a clear contrary intention appears, (a) words used with initial-capitalized letters shall have the definitions set forth herein, (b) the term "or" shall not be used in an exclusive manner, (c) reference to any gender

includes each other gender; (d) reference to any agreement, document, or instrument means such agreement, document, or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (e) "including" (with any correlative meaning "include") means including without limitation the generality of any description preceding such term; and (f) the headings in this Contract are inserted for convenience only and shall not affect the meaning or interpretation of this Contract.

11.2 Notices. All notices, reports, records, or other communications which are required or permitted to be given to the parties under this Contract shall be sufficient in all respects if given in writing and delivered in person, by facsimile, by electronic mail (return receipt requested), overnight courier, or by certified mail, to the receiving party at the following address:

If to Sponsor: Tooele County – Wendover Airport
345 Airport Apron
P.O. Box 159
Wendover, Utah 84083
Attention: James Petersen – Airport Director
Telephone: 435-665-2308
Facsimile: 435-665-0172
Email: jpetersen@co.tooele.ut.us

If to Engineer: Jviation, Inc.
900 S. Broadway, Ste. 350
Denver, CO 80209
Attention: Mark Lovato
Telephone: 303-524-3034
Facsimile: 303-524-3031
Email: mark.lovato@jviation.com

or to such other address as such party may have given to the other by notice pursuant to this Section. Notice shall be deemed given on the date of delivery.

11.3 Disputes. This Contract is made under and shall be governed by and construed in accordance with the internal laws of the State of Utah. Any controversy or claim arising out of or related to this Contract shall be resolved by binding arbitration in accordance with the then-effective rules of the American Arbitration Association ("AAA") and limited discovery shall be permitted. Upon notification by a party of such party's intention to arbitrate a dispute (the "Notice Date"), each party shall select one arbitrator, and the two arbitrators so chosen shall select one arbitrator. Each of the arbitrators chosen shall be impartial and independent of the parties. If a party fails to select an arbitrator within twenty days after delivery of the Notice Date, or if the arbitrators chosen fail to select a third arbitrator within twenty days after being chosen, then any party may in writing request the judge of the United States District Court closest to Wendover, Utah senior in term of service to appoint the arbitrator or arbitrators. Each arbitration hearing shall be held at a place in Wendover, Utah acceptable to a majority of the arbitrators. The decision of a majority of the

arbitrators shall be reduced to writing and shall be binding on the parties. Judgment upon the award rendered by a majority of the arbitrators may be entered and execution had in any court of competent jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement. The charges and expenses of the arbitrators shall be allocated as determined by the arbitrators.

11.4 Severability. The provisions of the Contract are severable, and, if any provision shall be determined to be illegal or unenforceable, such determination shall in no manner affect any other provision hereof, and the remainder of this Contract shall remain in full force and effect, provided however, that the intention and essence of this contract may still be accomplished and satisfied. In the event that any provision of the Contract is held to be unenforceable or invalid by any court of competent jurisdiction, Engineer and Sponsor shall negotiate an equitable adjustment in the provisions of this Contract to preserve the purpose of this contract and maintain the allocation of risk, liabilities and obligations originally agreed upon.

11.5 Governing Law. The terms of this Agreement shall be construed and interpreted under, and all respective rights and duties of the parties shall be governed by, the laws of the State of Utah.

11.6 Entire Agreement. This Contract constitutes the entire agreement between the parties and the terms and conditions hereof were negotiated between the parties on an arms-length basis and no obligation or covenant of good faith or fair dealing shall be implied or interpreted as conferring upon either party any right, duty, obligation or benefit other than expressly set forth herein. No modifications or amendments to this Contract shall be valid unless agreed to by the parties in writing and signed by their authorized representatives.

11.7 Warranties – Exclusion or Limitation. Except as specifically provided in this Contract, Engineer does not make, give or extend, and the Sponsor waives, any warranties, representations or guarantees of any kind or nature, express or implied, arising by law, statute, in contract, civil liability or tort, or otherwise, concerning the transaction which is the subject of the Plans and Specifications or the Services, including any performance guaranty and any implied warranty as to merchantability or fitness for a particular purpose or arising from a course of dealing or usage of trade as to any equipment, materials, or work furnished under this Contract.

11.8 Successors; Assignment. This Agreement shall be binding upon each party and its successors and assigns. Neither the Sponsor nor the Engineer shall assign, sublet, or transfer its interest in this contract without the written consent of the other.

11.9 Counterparts and Facsimile or Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement. A facsimile or other electronically delivered signature to this Agreement shall be deemed an original and binding upon the party against whom enforcement is sought.

[Signature Page Follows]

The parties executed this Base Contract as of this _____ day of _____, 201_____.

SPONSOR:
Tooele County – Wendover Airport

ATTEST:

By: _____

Name: _____

Title: _____

ENGINEER:
Aviation, Inc.

By: _____

Name: _____

Title: _____

**Exhibit A
to
Base Contract
Form of Amendment**

See attached.

AMENDMENT NO. ONE (1) TO CONTRACT
DATED _____

BETWEEN
JVIATION, INC.
AND
CLIENT
CITY, STATE

The Sponsor and the Engineer agree to amend their contract for improvements to the _____, _____ (city), _____ (state) to include fees for engineering services. The improvement Item Nos. _____ and _____ are included in the Scope of Work of the original contract. The items covered by this amendment are described as follows:

Item No.
Item No.

The Sponsor agrees to pay the Engineer for the services listed under Article II of the original contract in the following manner:

PART A - BASIC SERVICES

DESIGN

Item No. ___ Preliminary Design Lump sum of \$0.00
Item No. ___ Design Lump sum of \$0.00
Item No. ___ Preliminary Design Lump sum of \$0.00
Item No. ___ Design Lump sum of \$0.00

BIDDING

Item No. ___ Bidding Lump sum of \$0.00
Item No. ___ Bidding Lump sum of \$0.00

TOTAL BASIC SERVICES Lump sum of \$0.00

Method of payment shall be as follows:

Interim payments based on work performed by the Engineer and detailed in a report submitted to the Sponsor with the request for payment. A retainer of ten percent of the total contract amount to be paid upon Notice to Proceed for construction, or, in the event the Sponsor does not elect to proceed with construction, the remaining ten percent to be paid upon receipt of request for payment from the Engineer.

PART B - SPECIAL SERVICES (SOILS AND PAVEMENT INVESTIGATIONS/TOPOGRAPHIC SURVEYS/HYDROLOGIC STUDIES/CONSTRUCTION ADMINISTRATION AND FIELD ENGINEERING)

The maximum estimated SPECIAL SERVICES engineering is as follows:

GEOTECHNICAL INVESTIGATIONS (FOR DESIGN)

Item No. ____ Geotechnical Investigations..... Lump sum of \$0.00

TOPOGRAPHIC SURVEYS (FOR DESIGN)

Item No. ____ Topographic Surveys Lump sum of \$0.00

ACCEPTANCE TESTING (FOR CONSTRUCTION)

Item No. ____ Acceptance Testing Lump sum of \$0.00

If work is abandoned, or terminated, after obtaining approval by the Sponsor and the FAA of the final construction plans and specifications, the Sponsor shall reimburse up to 100 percent of the total lump sum as listed under PART A, and 100 percent of the invoiced costs for soils and pavement investigations, topographic surveys, and hydrological studies, or other studies as listed under PART B.

CONSTRUCTION ADMINISTRATION AND FIELD ENGINEERING

The estimated maximum for CONSTRUCTION ADMINISTRATION and FIELD ENGINEERING is:

Item No. ____ Construction Administration..... Lump sum of \$0.00

Item No. ____ Pre-Construction Coordination..... Lump sum of \$0.00

Item No. ____ Construction Coordination..... Lump sum of \$0.00

Item No. ____ Post Construction..... Lump sum of \$0.00

TOTAL SPECIAL SERVICES..... Lump sum of \$0.00

TOTAL..... Lump sum of \$0.00

Method of payment shall be as follows:

For services rendered under PART B - SPECIAL SERVICES, the Sponsor agrees to make monthly payments based upon the work performed by the Engineer, up to 90 percent of the total contract. The final ten percent of the fee shall be due and payable when the project final inspection and the construction report have been completed, and when reproducible "Record Drawings" have been submitted to the Sponsor and when the revised Airport Layout Plan has

been approved by the FAA or when the construction work has terminated. The "Record Drawings" and Construction Report shall be submitted within a period of 90 days from end of construction period. This Amendment shall be considered concurrent with completion of audit.

PART C – ASSURANCES

I. CIVIL RIGHTS ACT OF 1964, TITLE VI – CONTRACTOR CONTRACTUAL REQUIREMENTS

Reference: 49 CFR PART 21

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

- **Compliance with Regulations.** The Engineer shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- **Nondiscrimination.** The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- **Information and Reports.** The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of an Engineer is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

- **Sanctions for Noncompliance.** In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the Engineer under the contract until the Engineer complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.

- **Incorporation of Provisions.** The Engineer shall include the provisions of paragraphs one through five (*Compliance with Regulations, Nondiscrimination, Solicitations for Subcontracts, Information and Reports, and Sanctions for Noncompliance*) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the Sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

II.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS

Reference: Airport and Airway Improvement Act of 1982, Section 520; Title 49-47123; AC 150/5100-15, Para. 10.c.

The Engineer assures that it will comply with pertinent statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of Engineers, this provision binds the Engineers from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

III.

DISADVANTAGED BUSINESS ENTERPRISES

Reference: 49 CFR Part 26

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

Prompt Payment (§26.29) - The prime Engineer agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than *Fifteen (15)* days from the receipt of each payment the prime Engineer receives from Sponsor. The prime Engineer agrees further to return retainage payments to each subcontractor within Fifteen (15) 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 Board. This clause applies to both DBE and non-DBE subcontractors.

IV.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 49 CFR Part 20, Appendix A

- No Federal appropriated funds shall be paid, by or on behalf of the Engineer, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the Engineer shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

V.

ACCESS TO RECORDS AND REPORTS

Reference: 49 CFR Part 18.36(i); FAA Order 5100.38

The Engineer shall maintain an acceptable cost accounting system. The Engineer agrees to provide the Sponsor, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representative's access to any books, documents, papers, and records of the Engineer which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Engineer 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.

VI.
BREACH OF CONTRACT TERMS

Reference: 49 CFR Part 18.36

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

VII.
RIGHTS TO INVENTIONS

Reference: 49 CFR Part 18.36(i)(8); FAA Order 5100.38

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

VIII.
TRADE RESTRICTION CLAUSE

Reference: 49 CFR Part 30.13; FAA Order 5100.38

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

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

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a Engineer or subcontractor who is unable to certify to the above. If the Engineer knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the Engineer agrees that, if awarded a contract resulting from this solicitation, it will

incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The Engineer may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

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

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

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

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

IX.

TERMINATION OF CONTRACT

Reference: 49 CFR Part 18.36(i)(2); FAA Order 5100.38

- The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
- If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- If the termination is due to failure to fulfill the Engineer's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Engineer shall be liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.
- If, after notice of termination for failure to fulfill contract obligations, it is determined that the Engineer had not so failed, the termination shall be deemed to have been effected for the

convenience of the Sponsor. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.

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

X.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

Reference: 49 CFR Part 29; FAA Order 5100.38

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

XI.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR part 1910

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

XII.

CLEAN AIR AND WATER POLLUTION CONTROL

(Reference: 49 CFR § 18.36(i)(12)) Note, when the DOT adopts 2 CFR 200, this reference will change to 2 CFR § 200 Appendix II(G)

Contractors and subcontractors agree:

- a. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- b. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

- c. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- d. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

XIII.

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

(Reference: 2 CFR § 200 Appendix II (E))

- **Overtime Requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.
- **Withholding for Unpaid Wages and Liquidated Damages.** The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.
- **Subcontractors.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include

these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

XIV

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq.

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

XV

TEXTING WHEN DRIVING

References: Executive Order 13513, DOT Order 3902.10

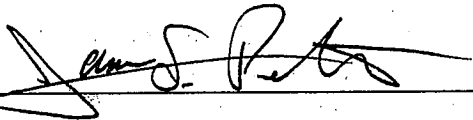
In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted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

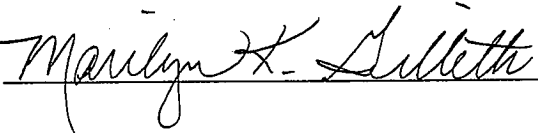
The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.

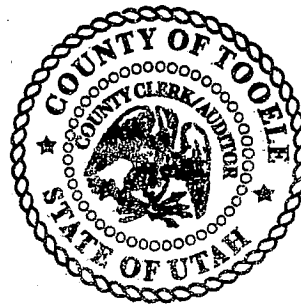
All other terms and conditions of the original contract shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures this 20th day of OCTOBER 2015.

SPONSOR:
NAME
LOCATION

By: 

Attest: 



ENGINEER:
VIATION, INC.

By: _____