

K20-990

CONTRACT BETWEEN
THE CITY OF NEW ORLEANS BY AND THROUGH THE NEW ORLEANS AVIATION BOARD
AND
BARRIERE CONSTRUCTION CO. LLC
NOAB PROJECT NO. TWY G- 1234 & TWY B- 1235
EXTENSION OF TAXIWAY GOLF AND TAXIWAY BRAVO
ITB #592

THIS CONTRACT is entered into by and between is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "City") by and through the New Orleans Aviation Board, represented by its Chair, (the "Board") (collectively referred to as "Airport"), and **Barriere Construction Company, LLC**, represented by **Matthew D. Woods, V.P. – Construction Operations** (the "CONTRACTOR"). The Agreement is effective as of September 21, 2020 (the "Effective Date").

RECITALS

WHEREAS, on May 15, 2020, the Board through the City issued an Invitation to Bid No. 592 and five (5) addenda dated May 21, June 1, June 5, June 9 and June 17 respectively, seeking a contractor to provide construction of the extensions of Taxiways Golf & Bravo (the "ITB");

WHEREAS, the Contractor submitted the lowest responsive bid in response to the ITB; and

WHEREAS, the Airport desires to award the Contract to the Contractor.

WHEREAS, the Board awarded this contract to Contractor at its meeting held August 20, 2020.

NOW THEREFORE, the Airport grants and confirms to the Contractor the contract to provide construction of the extensions of Taxiways Golf & Bravo to the Airport under the ITB, and the Airport and the Contractor, for good and valuable consideration, agree as follows:

ARTICLE I - THE CONTRACTOR'S OBLIGATIONS

The Contractor will perform all obligations of the Contractor, and be subject to all terms and conditions set forth in this Contract and in the following documents that are incorporated fully into this Contract: the Invitation to Bid, Instructions to Bidders, FAA General Provisions, FAA Supplemental Contract Provisions, NOAB Special Provisions, NOAB General Provisions, any addenda, the Plans, Drawings, and Specifications, and the Contractor's Bid dated June 23, 2020 (the "Bid") (collectively, the "Contract" and "Contract Documents").

ARTICLE II - THE AIRPORT'S OBLIGATIONS

The Airport will pay the Contractor at the rates set forth in the Contractor's Bid for the satisfactory performance of this Contract and will perform all obligations of the Airport, and be subject to all terms and conditions set forth, in this Contract and any incorporated documents

ARTICLE III - THE SURETY'S OBLIGATIONS

A. **Performance and Payment Bonds.** Federal Insurance Company (the "Surety") intervenes in this Contract and binds itself as surety for:

1. for the faithful performance of all work required of the Contractor by this Contract in the full sum of \$50,783,229.00; and
2. The full payment by the Contractor of all payments to be made by the Contractor under this Contract the full sum of \$50,783,229.00.

Each of these bonds is to be considered separate and distinct, and no payment made by the Surety under either bond shall in any way reduce the obligations of the Surety under the other.

B. **Acknowledgement of Contract.** The Surety represents and warrants that it has fully read and understands the terms of this Contract, including all incorporated documents.

C. **Survival and Validity of Bonds.** The Surety's bonds shall remain in full force and effect, and shall survive the termination of this Contract, but shall become null and void if the Contractor: (1) well and faithfully performs all and singular the obligations assumed by the Contractor in this Contract; (2) promptly pays all wages of laborers, workmen, or mechanics to be employed by the Contractor for all work done or labor performed by the Contractor or by any sub- contractors; or furnished to sub-contractors, and used in the construction, erection, alteration, performance or repairs of the work required by the Contract; (3) promptly pays for all materials or supplies furnished to the Contractor, or by any subcontractor, or to any subcontractor, for the use in machines used in the construction, erection, alteration, performance or repair of the work required by the Contract; (4) fully secures and protects the Airport, its legal successor and representatives, from all loss or expense of any kind, including premises, including all costs of Court and attorneys' fees, made necessary or arising from the failure, refusal or neglect of the Contractor to comply with all of the obligations assumed by it; and (5) promptly delivers all the work required by the Contract to the Airport, free from any and all claims, liens and expenses. The obligations of the Surety will not be affected in any way by any modifications, omissions, or additions in or to the terms of this Contract, the plans or specifications, or in the manner and mode of payment.

ARTICLE IV - ADDITIONAL PROVISIONS

A. **Convicted Felon Statement.** The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

B. **Non-Solicitation Statement.** The Contractor swears that it has not employed or retained any company or person to solicit or secure this Amendment other than a 1) bona fide employee working solely for Contractor; 2) consultant representing the Contractor; or 3) an attorney representing the Contractor. The Contractor has not paid or agreed to pay any person any fee, commission, percentage, gift, or any other consideration contingent

upon or resulting from this Amendment other than a 1) bona fide employee working solely for Contractor; 2) consultant representing the Contractor; or 3) an attorney representing the Contractor.

- C. **Non-Waiver.** The failure of either party to insist upon strict compliance with any provision of this Contract, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.
- D. **Entire Agreement.** This Contract, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Contract and are without effect to vary or alter any terms or conditions of this Contract.
- E. **Counterparts.** This Contract may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Contract, but all of which, when taken together, shall constitute one and the same agreement.
- F. **Electronic Signature and Delivery.** The Parties agree that a manually signed copy of this Contract and any other document(s) attached to this Contract delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Contract. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Contract.

[The remainder of this page is intentionally left blank]

[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, the Airport and the Contractor, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

BY:



LATOYA CANTRELL, MAYOR

Executed on this 12TH of OCTOBER, 2020

FORM AND LEGALITY APPROVED:

Law Department

By:



Printed Name:

Andrew Gregorian

[BOARD SIGNATURES CONTAINED ON NEXT PAGE]

Contract

Between the City of New Orleans by and through the New Orleans Aviation Board and
Barriere Construction Co., LLC
Extension of Taxiway G/B, ITB 592
BRASS#2000
K#20-990

Approved by resolution of the New Orleans Aviation Board and directing the Director of Aviation and Chairman to execute the same was passed on August 20, 2020.

NEW ORLEANS AVIATION BOARD

By: Michael Bagneris 10/9/2020
Hon. Michael Bagneris, Chairman Date

New Orleans Aviation Board

By: Kevin Dolliole 10-8-2020
Kevin Dolliole, Director of Aviation Date

New Orleans Aviation Board

Reviewed as to form and legality:

By: Michele Allen-Hart 10/7/2020
Michele Allen-Hart Date

General Counsel and Deputy Director of Legal Affairs

New Orleans Aviation Board

[CONTRACTOR SIGNATURE CONTAINED ON NEXT PAGE]

Barriere Construction Co., LLC

BY: Matthew D Woods

Printed Name: Matthew D. Woods

Title: V.P. – Construction Operations


FEDERAL TAX I.D. OR SOCIAL SECURITY NO.

NAME OF SURETY

FEDERAL INSURANCE COMPANY

BY: Stephen L Cory
Stephen L. Cory, Attorney-in-Fact

NAME OF INDIVIDUAL REPRESENTING THE SURETY, AGENT OR ATTORNEY-IN-FACT

[ORIGINAL POWER OF ATTORNEY MUST BE ATTACHED TO THIS CONTRACT]

CITY OF NEW ORLEANS

REQUIRED CONTRACT PROVISIONS

The following terms and conditions will be incorporated into the successful bidder's contract with the City/NOAB. By submitting a bid, the bidder acknowledges he/she has read and understands these terms and conditions and accepts them without reservation.

1. **EQUAL EMPLOYMENT OPPORTUNITY:** In all hiring or employment made possible by, or resulting from this contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, affirmative action will be taken to ensure that the successful bidder's employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. The successful bidder shall include the provisions of this paragraph in all subcontracts.
2. **ASSIGNABILITY:** The successful bidder shall not assign any interest in this agreement and shall not transfer any interest in the same without prior written consent of the City/NOAB. The City/NOAB reserves the right to transfer their interests herein to any entity authorized by law to operate the Airport now or in the future.
3. **INSURANCE: Insurance Policies Requirements:** The successful bidder shall purchase in its name and maintain at a minimum, for the duration of the Contract, at the successful bidder's sole cost and expense, the following insurance policies to provide primary coverage for claims and/or suits that may arise out of or result from the performance of the work of the successful bidder, its agents, partner, laborer, supplier, employee, representatives and any subcontractor or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:
 - a. Workers' Compensation Insurance with statutory limits of liability and minimum Employer's Liability Limits of One Million Dollars (\$1,000,000).
 - b. Automobile Liability Insurance with a minimum One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage. The insurance shall include coverage for owned vehicles, hired vehicles and non-owned vehicles. In the event that Contractor operates vehicles on the Airport Operations Area (AOA) use or intended to be used for aircraft movements, landings, maintenance, or operations, the minimum limits of Business Automobile Liability Insurance (inclusive of any amounts provided by an umbrella or excess policy) covering all owned, hired, and non-owned vehicles are Ten Million Dollars (\$10,000,000) per occurrence (both bodily injury and property damage).
 - c. Commercial General Liability insurance with a minimum Five Million Dollars (\$5,000,000) combined single limit per occurrence bodily injury and property damage. This insurance shall include coverage for premises-operations, broad-form contractual liability, products and completed operations, use of successful bidders and subcontractors, personal injury, and broad-

form property damage. A "Claims made" form shall not be acceptable. The "occurrence form" shall not have a "sunset clause".

- d. Builder's Risk: The Contractor shall purchase and maintain Builder's Risk insurance upon the entire Work at the site to the full insurable value thereof.
 - i. The policy shall not contain a co-insurance requirement. The Contractor shall purchase the policy with the City and NOAB as the Named Insureds and maintain an "all risk" builder's risk coverage on a replacement cost basis, including flood on the entire Work. These policies must at a minimum cover for such amount of the Work as is determined by the Engineer and/or Architect.
 - ii. This insurance shall include, the Contractor, Subcontractors, Sub-Subcontractors, and/or vendors deemed appropriate by the Contractor shall also be Named Insureds, and shall insure against the perils of fire, flood, and extended coverage and shall include, "all risk", insurance for physical damage including, without duplication of coverage, theft, mysterious disappearance, changes or extremes of temperature and/or humidity, operation of ordinance or law in an amount of ten percent (10%) of the project price, not to exceed \$1,000,000; mechanical breakdown or electrical injury, testing as appropriate for the type of project, earthquake and/or other earth movement, pile driving, debris removal, damage to any Work-related personal property in the open resulting from a non-excluded peril, vandalism and malicious mischief. Bidder shall include in bid, costs to determine required flood elevations.
 - iii. If not covered under the "all risk" insurance or otherwise provided in the Contract, the Contractor shall effect and maintain similar insurance on portions of the Work stored off the site when such portions of the Work are to be included in any applications for payment and such procedures have been approved by the NOAB.
 - iv. The property insurance shall include the fees of the Engineer and/or Architect necessary to be incurred in repairs or reconstruction of the work to be conducted under the Contract.
 - v. The Builder's Risk insurance shall be written and provided such that any portions of a building or site vacated by the NOAB to accommodate the Work are protected and covered by the terms of the insurance. The insurance shall not be cancelled or permitted to lapse because of such vacancy.
 - vi. Coverage is to provide for use and/or occupancy, without qualification, of any and all portions of the Work, or the premises where the Work is being conducted, whether the Work has been accepted by the City or not.
 - vii. The Contractor shall obtain consent of the insurance company that no action will be taken with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.
 - viii. Coverage for Builder's Risk Soft Cost is to be included in the policy.
- e. The insurance policies herein required shall contain or be endorsed to contain the following provisions:

- i. The Workers' Compensation coverage shall contain an express waiver of all rights against the City of New Orleans and NOAB, its elected and appointed officials, officers, agents, directors, volunteers, and employees, for losses arising from the services performed by the Successful bidder for the City.
 - ii. The City of New Orleans, the NOAB and their respective officers, officials, and employees are to be added as additional insured as respects liability arising out of activities performed by or on behalf of the successful bidder; products and completed operations of the successful bidder, premises owned, occupied or used by the successful bidder. The coverage shall contain no special limitations on the scope of protection afforded the additional insured.
 - iii. Certificates of insurance acceptable to NOAB shall be provided to NOAB prior to commencement of the work. These certificates shall contain a provision that coverage afforded under the policies of insurance shall not be canceled unless and until at least thirty (30) days prior written notice has been given to NOAB.
 - f. All insurance required by this section shall be placed with insurers that are licensed and authorized to do business in the State of Louisiana and have a rating of no less than A-VI in the most current edition of the A.M. Best Insurance Report, AAA in Moody's, and AAA in S&P.
 - g. The successful bidder shall provide original certifications of the required insurance coverage at City/NOAB request. Annual renewals of certificates of insurance shall be furnished to the Authorized Representative.
 - h. The successful bidder shall provide the City/NOAB with certificates of insurance evidencing all the required coverage's purchased and maintained in accordance with this Agreement. Such certificates shall provide that the City/NOAB be given at least sixty (60) days prior written notice of any cancellation of, intention not to renew, or material change in such coverage. The successful bidder must provide certificates of insurance before commencing work in connection with the Agreement.
 - i. The providing of any insurance required herein does not relieve the successful bidder of any of the Agreement responsibilities or obligations or for which the successful bidder may be liable by law, agreement, contract or otherwise.
 - j. The successful bidder's failure to provide and maintain such insurance in force as required above shall materially breach the Agreement and, at the City/NOAB's option, occasion an immediate cancellation for cause thereof.
 - k. In any work on the Airport that requires access by the successful bidder to the United States Customs Federal Inspection Service (FIS) Area, the successful bidder shall be responsible for all required clearances and Customs Insurance/Bonding required for work in this area.
- 4. SURETY:** No company shall be accepted as surety on any bonds required by the City/NOAB unless such company is currently licensed to do business in the State of Louisiana and either:
- a. Is a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Services list of approved bonding companies which is published annually in the Federal Register; or

- b. Is a Louisiana domiciled insurance company with at least an A- rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to ten percent of policyholders' surplus as shown in the A.M. Best's Key Rating Guide; or
- c. Is an insurance company that is either domiciled in Louisiana or owned by Louisiana residents and is licensed to write surety bonds.

No company shall be accepted by City/NOAB, in any bonds required in the bid document, if that company is currently in default under or delinquent on any bonds in favor of City/NOAB.

No surety or insurance company shall write a bond which is in excess of the amount indicated as approved by the U.S. Department of Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A- rating by A.M. Best up to a limit of ten percent of policyholders' surplus as shown by A.M. Best.

No bond shall be accepted from a company authorized to be a surety which is not on the U.S. Department of Treasury Financial Management Service if the bond exceeds fifteen percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

If the surety furnished for this Contract becomes unacceptable to City/NOAB, the Successful bidder shall promptly furnish an acceptable substitute bond, at no additional expense to City/NOAB.

5. **APPROVAL OF CONTRACT:** Upon receipt of the Contract and Contract bond or bonds that have been executed by the successful bidder and by the bonding company, the City/NOAB shall complete the execution of the contract in accordance with law, and return the fully executed contract to the successful bidder. Delivery of the fully executed contract to the successful bidder shall constitute the agreement to be bound by the successful bidder's bid and the terms of the contract.
6. **NOTICE TO PROCEED:** The notice to proceed shall state the date on which it is expected the successful bidder must begin the contracted services. **CITY OF NEW ORLEANS VENDOR REGISTRATION REQUIREMENT:** Successful bidder is required to register as an approved vendor before contract award can be issued. City of New Orleans' Vendor Registration can be completed online at the City Purchasing Portal: www.purchasing.nola.gov. If you have any problems accessing the system, logging on to the system or if you do not have access to the Internet, contact the Purchasing Departments Vendor Administrator at (504) 658-1550. Assistance is available Monday through Friday, 9:00 a.m. to 4:00 p.m. CST.
8. **INDEMNIFICATION:** The successful bidder shall fully indemnify, save harmless and defend the City of New Orleans, the NOAB, and all their respective officers, agents, employees, representatives and attorneys (herein referred to as "Indemnities") from and/or against all suits, actions, claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs) of any character, name, and description brought for or on account of any injuries or damages (including but not restricted to death) received or sustained by any persons or property on account of, arising out of, or in connection with:
 - a. The operations of the successful bidder, its subcontractor, and lower-tier contractors; and
 - b. Any negligent act or intentional omission, misconduct, or fault of the successful bidder, its subcontractors, and lower-tier contractors or their agents or employees in the execution of the contract or performance of the services required hereunder; and

- c. Any violation of law, ordinance, regulation, or order of any public authority having jurisdiction over the services required hereunder.
- 9. PURCHASE ORDERS:** The successful bidder must receive an approved purchase order from the City of New Orleans Department of Finance Purchasing Bureau prior to beginning all work or acceptance and processing of all orders. Only Purchasing Agent or authorized deputies have authority to place orders chargeable to city funds. The successful bidder may contact Department personnel listed on the purchase order to verify the authorization of the employee placing the call.
- CLAIMS:** Claims against the New Orleans Aviation Board are payable only on invoices, reference NOAB purchase order number, rendered to the NOAB Procurement Department, Post Office Box 20007, New Orleans, LA 70141.
- 11. NOAB RULES AND REGULATIONS:** The successful bidder shall comply with all provisions of the NOAB Rules and Regulations, as same shall be amended from time to time. Copies are available from the Authorized Representative, upon request.
- 12. MEDICAL EMERGENCIES:** All medical emergencies, regardless of the nature and/or seriousness that occur on Airport property shall be immediately reported to the Airport Communications Center (AVCOM). Several methods of transmitting medical emergency messages are available:
- a. Commercial Telephone: (504) 464-2700
 - b. Airport Courtesy Phone: 2700
 - c. In those situations where these facilities are not readily available, successful bidders and/or visitors should contact any airport tenant (airline employee, security personnel, shop keeper) a police officer, FAA Tower, or airport operations, in person, or by whatever means are available i.e. mobile phone, radio, etc.
- 13. ACKNOWLEDGMENT OF EXCLUSION OF WORKER'S COMPENSATION AND UNEMPLOYMENT COMPENSATION COVERAGE:** Successful bidder herein expressly agrees and acknowledges that it is an independent contractor and as such, it is expressly agreed and understood between the parties hereto, in entering into this services agreement, that the City /NOAB shall not be liable for any benefits or coverage as provided by the Workman's Compensation Law of the State of Louisiana or applicable unemployment compensation law, and further, anyone employed by the successful bidder shall not be considered an employee of the City/NOAB for the purpose of workers compensation or unemployment compensation coverage.
- WAIVER OF SICK AND ANNUAL LEAVE BENEFITS:** It is expressly agreed and understood between the parties entering into this services agreement that the successful bidder, acting as an independent agent, shall not receive for its employees any sick and annual leave benefits from the City /NOAB.
- 15. COMPLIANCE WITH IMMIGRATION AND NATURALIZATION ACT:** The successful bidder and any subcontractors shall comply with all laws relating to immigration and naturalization, failure to comply shall constitute a default.
- 16. SCREENING:** All of the successful bidder's personnel working at the Airport must pass a ten (10) year Criminal History and Records Check (CHRC) and complete a Transportation Security Administration (TSA) Security Threat Assessment (STA) prior to performing duties under this contract. The New Orleans Office of Homeland Security and the Airport Security Department reserves the right to interview and conduct a background check on any prospective employee of the successful bidder working under this contract. CHRC fingerprint checks are required for all personnel stationed at the Airport. CHRC fingerprint fees are \$40.00 per

applicant which includes a TSA STA to determine each employee does not pose a security threat. CHRC and STA results are typically received within three (3) days to three (3) weeks of the date the employee is fingerprinted. For a full list of disqualifying offences, please visit the Airport Security Department. Under federal regulation 14 CFR 1542.209, employees that have unescorted access authority on Airport property are required to disclose a conviction of any disqualifying criminal offences to the Airport Security Department within twenty-four (24) hours of occurrence.

- 17. JURISDICTION & CHOICE OF LAWS:** Bidder agrees that (a) the law of the State of Louisiana shall govern this solicitation and any resulting contract; and (b) exclusive venue for any lawsuits or disputes arising from or related to this solicitation and any resulting contract shall be in the Civil District Court for the Parish of Orleans; and (c) this solicitation and any resulting contract shall be construed and enforced in accordance with the laws of the State of Louisiana, excepting its conflict of law provisions.
- 18. MODIFICATION:** The terms and conditions of this contract may only be modified by written amendment signed by both parties.
- 19. CANCELLATION:** The City/NOAB may terminate the contract at any time during the term of the contract by giving written notice of said intention to terminate at least thirty (30) days before the date of termination. City/NOAB may terminate the contract, at its option, at any time, for any failure of the Successful bidder to comply with any or all of its obligations under the contract; said termination by City/NOAB shall be effective as of a date selected by City/NOAB at its discretion. Failure of the City/NOAB to exercise its termination rights at any time shall not be considered a waiver of any such rights.
- 20. FAILURE TO PERFORM CONTRACTUAL OBLIGATIONS:** If successful bidder fails to perform some or all of its obligations under the contract, the NOAB may give notice of deficiencies to successful bidder. If successful bidder fails to remedy said deficiencies within seven days of date of said notice then City/NOAB shall be entitled to withhold some or all of any payments otherwise due to successful bidder. Nothing in this paragraph shall prejudice any other rights of City/NOAB.
- 21. Omitted**
- 22. SUB-CONTRACTOR TERMINATION AND SUBSTITUTION:** Successful bidder shall not terminate, substitute or replace subcontractors listed on Schedule of Contract Participation and SL/DBE Participation Form without notifying and obtaining prior written approval from the NOAB. Any and all requests for authorization to remove and/or substitute a subcontractor(s) must be made in writing by the successful bidder or subcontractor seeking removal or substitution. The request must be made on the form provided by the City/NOAB. All requests for removal and/or substitution must be accompanied by documentation in support of the request. In the event that the subcontractor sought to be replaced is a DBE, the successful bidder or subcontractor making the request must submit with the request the name(s) of replacement subcontractor(s) who are currently listed by the NOAB DBE Liaison Office, and proof of certification must accompany the request. In all cases, the name(s) of the replacement subcontractor must be submitted with the request.
 - a. The City/NOAB shall distribute copies of the request and supporting documents to all members of the panel which shall review evidence, testimony and/or documents within seven (7) days of receipt of the removal and/or substitution request, at a hearing convened for the purpose of taking and reviewing evidence. The party making the request may waive the right to a hearing and ask that the matter be decided based upon documentary evidence.
 - b. The panel shall consist of:

- i. A representative of the Airport's staff.
 - ii. The NOAB DBE Liaison Officer.
 - iii. An authorized representative of the City/NOAB.
 - iv. A representative of the NOAB Legal Department.
- c. All members of the panel shall have a vote with the exception of the airport counsel, who shall sit solely in an advisory capacity.
- d. No later than two (2) days after the hearing is conducted or in the event the hearing is waived and within ten (10) days of receipt of a request, the panel shall issue a written decision making a recommendation to the NOAB DBE Committee, if the firm to be removed and/or substituted is a DBE firm. The DBE Committee shall make a recommendation to the panel which shall in turn make a recommendation to the NOAB. The NOAB shall make the final decision as to removal and/or substitution of any subcontractor.

23. SOLICITATION: The successful bidder has not employed or retained any company or person, other than a bona fide employee working solely for the successful bidder, to solicit or secure the subject contract. The successful bidder has not paid or agreed to pay any person, other than a bona fide employee working for the successful bidder, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the subject contract.

24. AUDIT, RECORDS AND OTHER OVERSIGHT:

- a. City/NOAB Officials and/or their Authorized Representatives shall have the right to audit, inspect, and review all books and records (in whatever form they may be kept whether written, electronic or other) relating or pertaining to this contract or agreement (including any and all documents and other materials, in whatever form they may be kept which support or underlie those books and records), kept by or under the control of the successful bidder, including, but not limited to those kept by the successful bidder, its employees, agents, assigns, successors and subcontractors.
- b. The successful bidder shall maintain such books and records together with such supporting or underlying documents and materials for the duration of this contract or agreement and for at least five (5) years following the completion of this contract or agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request to the NOAB, through its employees, agents' representatives, successful bidders or other designees, during normal business hours at the Successful bidder's office or place of business. In the event that no such location is available, then the books and records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location at, location, which is convenient for the NOAB.
- c. If this contract is completely or partially terminated, the records relating to the services terminated shall be made available for a period of three (3) years from the date of termination or of any resulting final settlement; and Records which relate to litigation or settlement of claims arising out of this contract shall be made available until such litigation, or claims have been resolved.

- d. All of successful bidder's subcontracts must provide the rights set forth in this section to the NOAB; failure to do so shall be reason to exclude some or all of the subcontractor's costs from amounts payable to the successful bidder pursuant to this contract.
 - e. It is agreed that the successful bidder will abide by all provisions of City Code Section 2-1120, including but not limited to City Code Section 2-1120 (12) which requires the successful bidder to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests and information shall constitute a material breach of the contract. In signing this contract, the successful bidder agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.
- 25. TAX CLEARANCE CERTIFICATE:** After receiving written notice to a bidder that the contract is intended to be awarded to said successful bidder, the successful bidder must complete a City Tax Clearance Authorization Form and receive an approved Tax Clearance Certificate prior to contract award.
- 26. PUBLICITY:** All inquiries by the public and/or media should be directed to the Airport Public Relations Office.
- 27. ETHICS:** It is NOAB policy that all service providers shall be expected to have complied, and in the future to comply, with all ethics laws of the State of Louisiana and the City of New Orleans and to be free of conflicts of interest if awarded a contract. Each bidder shall be deemed to have acknowledged said policy. All bidders shall be required to complete the NOAB ethics questionnaire. Any indication that a bidder has violated (or has given the appearance of violating) an ethics law, or is not free of actual or potential conflicts of interest, will cause rejection of that bid. Any indication that, once awarded a contract, a successful bidder has violated or has given the appearance of violating an ethics law or is not free of actual or potential conflicts of interest may, in the sole discretion of the NOAB, constitute grounds for termination of the contract.
- 28. PUBLIC TRUST:** Successful bidder and/or any subcontractor hereunder, and their respective owners, officers and employees (hereinafter collectively referred to as the "Interested Contract Persons"), acknowledges that the NOAB and the City of New Orleans are government entities serving the public and charged with public trust. As such, the City/NOAB will be making payments under this contract with public funds. Certain types of actions, including without limitation criminal activities and offenses involving moral turpitude, by Interested Contract Persons may violate the public's trust. Accordingly, the City/NOAB reserves the right, to exercise in its sole discretion, to pursue termination of this contract or any affected subcontractor, to seek damages, and/or to seek any other remedies available at law, in the event of a conviction of any one or more of the Interested Contract Person or the rendition of a civil judgment against any one or more of the Interested Contract Persons, for any crime or offense involving moral turpitude.
- 29. EMPLOYEE VERIFICATION:** Contractor swears that (i) it is in compliance with Louisiana Revised Statutes 38:2212.10, and is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. Contractor acknowledges and agrees that any violation of the provisions of this paragraph may subject this Agreement to cancellation, and may further result in Contractor being ineligible for any public contract for a period of three years from the date the violation is discovered. Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the City/NOAB occasioned by the cancellation of this Agreement or the loss of any license

or permit to do business in the State of Louisiana resulting from a violation of La. R.S. 38:2212.10. Contractor agrees to provide to the City/NOAB a sworn affidavit attesting to the above provisions if requested by the City/NOAB to do so; failure to provide such affidavit upon request shall give the City/NOAB the option to cancel this Agreement.

30. OWNERSHIP INTEREST: The Contractor shall provide a sworn affidavit listing all persons, natural or artificial, with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the contractor via a counter letter. For the purposes hereof, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the City/NOAB may, after 30 days' written notice to the prime Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

31. SUBCONTRACTOR REPORTING: The Contractor shall provide a list of all persons, natural or artificial, who are retained by the Contractor at the time of the contract's execution and who are expected to perform work as subcontractors in connection with the Contractor's work for the City/NOAB. In regard to any subcontractor proposed to be retained by the Contractor to perform work on the contract with the City/NOAB, the Contractor must provide notice to the City/NOAB within 30 days of retaining said subcontractor. If the Contractor fails to submit the required lists and notices, the City/NOAB may, after 30 days' written notice to the prime Contractor, take such action as may be necessary to cause the suspension of any further payments until such the required lists and notices are submitted and approved.

32. Omitted

33. Payment of Invoices. The City/NOAB will take a minimum of 45 days to process all invoices and pay applications. All payments will be made by check and no other form of payment will be issued. Payments will only be delivered by U.S. Mail; no other method of delivery will be permitted. Contractor consents to the foregoing payment schedule and will make adequate arrangements to accommodate the City/NOAB's pay schedule. Contractor shall not request payment before the expiration of this 45-day period and will not contact the Airport, its representatives, or Board Members to inquire about the status of payments or otherwise expedite the foregoing pay schedule.