

## APPENDIX 22

### FEDERAL PROVISIONS

In this Appendix 22, except as otherwise expressly provided herein or unless the context otherwise requires: (a) “contractor” means Developer or Contractor, as applicable; (b) “sponsor” means the Owner; and (c) “the contract” or “this contract” means the Agreement.

#### **1. CIVIL RIGHTS - GENERAL**

##### **1.1 Contract Clause**

##### **1.1.1 Title VI Clauses for Compliance with Nondiscrimination Requirements**

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

1. **Compliance with Regulations:** Developer (hereinafter includes Contractors) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of the Agreement.

2. **Non-discrimination:** Developer, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Contractors, including procurements of materials and leases of equipment. Developer will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by Developer for work to be performed under a Contract, including procurements of materials, or leases of equipment, each potential Contractor will be notified by Developer of Developer’s obligations under the Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** Developer will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information

required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, Developer will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

**5. Sanctions for Noncompliance:** In the event of Developer's noncompliance with the non-discrimination provisions of the Agreement, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including:

- a. Withholding payments to Developer under the Agreement until Developer complies; and/or
- b. Terminate the Agreement for Developer Default or suspend Work in accordance with the Agreement.

**6. Incorporation of Provisions:** Developer will include, or cause to be included, the provisions of paragraphs one through six in every Contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Developer will take action with respect to any Contract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, that if Developer becomes involved in, or is threatened with litigation by a Contractor because of such direction, Developer may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Developer may request the United States to enter into the litigation to protect the interests of the United States.

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

During the performance of the Agreement, Developer, for itself, its assignees, and successors in interest, agrees to comply, and to cause each Contractor to comply, with the following non-discrimination statutes and authorities, including:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

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

## **2. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

The Agreement and the Contracts incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force

and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

Developer has full responsibility to monitor compliance to the referenced statute or regulation. Developer must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

### **3. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

The Agreement and all Contracts incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Developer or Contractor, as applicable, must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Developer retains full responsibility to monitor its compliance and the Contractors' compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Developer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.