Port of Pasco

On-Call Rail Track Inspection and Repair Services

REQUEST FOR PROPOSALS :
The Port of Pasco ("Port") invites qualified, licensed firms to submit proposals for on-call rail track inspection and repair services. Through this RFP, the Port seeks a vendor to provide track inspection, repair, and on-call services at the Big Pasco Industrial Center (Oregon Avenue/SR 397), Heritage Rail, Pasco Processing Center Reimann Industrial Center (Railroad Avenue), and other Port-directed rail work.

Services
The Contractor shall provide:

1. Specialized tools and equipment for periodic and special track inspections.
2. Track inspections per conditions within this document.
3. Call-out track repair services per the conditions within this document.

Quarterly Inspections.

- Track shall be inspected in accordance with Federal Railroad Administration (FRA) Track Safety Standards (TSS) and Class 1 per Compliance Manual Guidance per 213.3 Application Section.
- Track inspections will be walking inspections of in-service trackage only per guidance for monthly inspection of auxiliary track as defined by FRA within the TSS.
- Provide Roadway Worker Protection (RWP) for the Contractors' work.
- Track inspections data shall utilize Port track, turnout, and segment designation found in the Port's rail inventory documentation.
- Track inspections shall include two distinct aspects:
    - FRA inspections using Class 1 criteria and must include only exceptions / defects that have an FRA defect code. FRA inspection record shall be provided on the same day as the inspection.
    - Other inspection information related to general conditions and sustainability – including any recommendation. General conditions inspection information shall be provided within one week of inspection.
- Track inspection forms / templates shall be submitted for approval.

- Contractor shall provide qualifications of proposed track inspectors (initially and as they potentially change). The Port shall designate track inspectors per Track Safety Standards Part 213.7.

Special Inspections.

- Special inspections will be performed per Port request and approval in accordance with the pricing structure provided below (or as otherwise appropriate and approved for the level of effort for the scope of the special inspection).

Call-Out and On Call Repairs.

- Other track repair work will be performed either on Lump Sum, unit prices, or using Time and Materials consistent with Force Account process as outlined in WSDOT Standard Specifications per determination by the Port. No work shall be performed without agreement from the Port on scope and pricing structure.

- The Contractor shall be available to respond to call-out requests within 24 hours of receiving the Port's initial notification.

General Clarifications.

- Port owned rail facilities include Big Pasco Industrial Center, Heritage Rail, Pasco Processing Center, and Reimann Industrial Center.
- Track inspections and repairs at the Port are not exclusively the work of the on-call track Contractor. (Some repairs and maintenance may be performed by the Port, other contractors, or consultants.)
- Railroad grade crossing signal inspections and maintenance are not included in this proposal. Contractor shall cooperate with signal inspection and maintenance contractor.
- All significant railroad rehabilitation, reconstruction, and construction of new segments will be performed by the Port through separate contracts.
- Contractor will not be excluded from bidding on track maintenance, rehabilitation, and new construction projects at Port rail facilities.
- Adjustments in Pricing will be negotiated when segments of Port trackage are placed into service or removed from service (related to quantity of track etc. to be inspected).
- The Port currently does not (and does not plan to) perform:
    - Ultrasonic Rail Testing
    - Geometry Car
    - X-Ray Tie Inspection
- Track inspections shall include inspections of crossing surfaces (10' wide), crossing and crossing related signs and pavement markings, wayside signs, and drainage structures under track infrastructure.
- This work will not include vegetation control (except as noted in inspections).
- Contractor shall be able and qualified to perform thermite welds (except for ultrasonic testing).
- Authorized maintenance, on-call, and repair work will conform to Port standard railroad specifications provided by the Port.

- The Port will authorize all repairs prior to Contractor beginning any work.
- Contractor shall provide and maintain BNSF contractor.com training, RWP training, and eRailsafe for all field personnel as an incidental part of the work.
- Contractor shall provide qualifications for operation of rail machinery per FRA requirements.
- Contractor shall provide and maintain general safety plan.
- The work is subject to prevailing wage laws and WA State Labor and Industry requirements and reporting.

Hours of Performance. The Contractor shall perform routine inspections during normal working hours unless otherwise authorized by the Port. The Contractor shall be on call after hours for emergency repairs.

Other:
Contractor-owned equipment will not be stored on site (except associated with ongoing work). Any equipment left on Port property must be approved by the Port and the Port will not be responsible for the security, damage, leaks/spills, environmental compliance and removal of such equipment.

Inspection and Repair Items.
One Year of On-Call Track Inspection and Maintenance Services:

- Quarterly Inspections. LS = $_____
- Special Inspection – 2 hrs on-site – single crew member – regular working hours at mutually agreeable time. LS = $_____
- Special Inspection premium for outside regular working hours – 2 hrs on site. LS = $_____
- Repairs will be performed per Contractor developed rate sheet for labor and equipment. Rentals and materials (and subcontractors if used) shall be charged per WSDOT Force Account guidelines. Material from inventory will be charged per market value (plus allowed markup). All general overhead and profit shall be included in rates.
- Escalation of rates will be allowed up to once per year not exceeding 1% over CPI – or as negotiated.

The Port will enter into a contract for one year that may be renewed for up to a 5 year term.
Each lump-sum item includes all incidental costs for the services rendered: overhead, profit, bonding, insurance, transportation, tools, equipment, training, and PPE.
In addition, the Contractor shall charge Washington State Sales Tax as a separate line item required.

PROCESS & TIMELINE:
At a minimum, firms responding to this RFP must describe their qualifications, relevant experience, and understanding of maintenance, inspection, and testing services for highway grade crossing railroad warning systems. Responses must also address the firm's experience maintaining records in compliance with Federal Railroad Administration regulations.

Submit 5 hard copies in person or by mail to the Port of Pasco Administrative Office, 1110 Osprey Pointe Ave., Suite 201, Pasco, WA 99301.

SCHEDULE

RFP Released	October 7, 2026,
Cut off for Questions	October 28, 2026
Addendum Issue	November 4, 2026
Submittals Due	November 13, 2026
Notice of Preferred Candidate	November 25, 2026

Questions may be submitted by e-mail to Jaime Vera at Jvera@portofpasco.org until the cut-off date. The Port will attempt to respond to all parties who have requested a copy of the RFP, but it is the responsibility of the parties to ensure they have provided a primary point of contact and that the point of contact information provided is correct.

Copies of this RFP may also be obtained at the Port of Pasco Administrative Office, 1110 Osprey Pointe Ave., Suite 201, Pasco, WA 99301, during the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday or from the website at www.portofpasco.org

ATTACHMENTS TO RFP

1. Proposed Contract

HOW TO SUBMIT

Interested firms should submit the information in person or by mail to the following address no later than 4:00pm on November 13, 2026. Please provide five (5) hard copies of the submittal for review.

Jaime Vera
Project Manager
Port of Pasco
1110 Osprey Pointe Ave, Suite 201
Pasco, WA 99301
jvera@portofpasco.org

Submittal Contents

1. Cover Letter: A brief letter introducing the firm and expressing interest in the project.
2. Project Approach: A detailed narrative outlining the firm's approach to perform Maintenance, Inspection and on call services to Port owned rail systems.
3. Team and Qualifications: Resumes and professional licenses for the proposed project team, lead professionals.
4. Similar projects or work experience.
5. References**:** A list of three (3) professional references from clients for whom similar work has been performed.

Submittal Evaluation

The review panel will include the Port Executive Director, Deputy Executive Director, Big Pasco Facilities Manager, Director of Properties and Port Project Manager. Firms will be rated on submittal contents outlined above. Each element will be equally weighed. The panel will score

independently and meet to determine top candidate. The committee reserves the right to call for in-person interviews for top 2 or 3 candidates. Interviews will be scored separately and combined with submittal evaluation scores for an overall total score.

Contract
The winning firm will be expected to enter into a contract with the Port of Pasco, the form of which is attached as Attachment 1.

Addenda
As the Port determines it is appropriate, it will issue addenda to this RFP. Each consultant shall provide the Port with contact information for receipt of such addenda. Any applicant who downloads the RFP from www.portofpasco.org or otherwise obtains this document, must send an e-mail to Jaime Vera at Jvera@portofpasco.org with the party's contact information in order to receive any addendum. The Port is not responsible for e-mail delivery failure for any reason. It shall be conclusively presumed that the applicant did, before submitting a Response to the RFP read all addenda, posted decisions, and other items relevant to the qualifications. All addenda shall be acknowledged by the firm and returned to the Port with the submittal document.

OPEN PUBLIC RECORDS ACT
Documents submitted in response to this RFP are subject to the Washington State Open Public Records Act, RCW 42.56. If the proposer believes that any information, data, process or other material in its proposal constitutes trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, then the proposer should mark those items as confidential or proprietary and provide a list of those items with specificity as to the page and paragraph and on what basis it believes the material is confidential or proprietary. The Port is not bound by the proposer's determination as to whether materials are subject to disclosure under the Public Records Act.

If the Port receives a request for such information marked as confidential, it will notify the proposer that the information has been requested. The notice will provide that the information will be released in ten business days and then any applicable regulatory challenge to prevent the disclosure of the information will be the sole burden of the firm.

The proposer agrees 1) to intervene in any lawsuit arising out of a request for its materials to protect and assert its claims of privilege against disclosure of such material; 2) that its failure to object or intervene and assert claims of privilege against disclosure in relation to its proprietary or confidential information results in waiver the same; 3) to release and defend, indemnify and save and hold harmless the Port, its officers, agents and employees, from any claim, damages, expense, loss or costs, including reasonable attorneys' fees, arising out of or in any way relating to requests for disclosure of material provided or produced in response to this RFP.

PROPOSAL PREPARATION, CONSULTANTS COSTS AND EXPENSES
The Port is not liable for any costs or expenses arising out of preparation of the proposer's submittal. If selected, the firm may not include any of these costs or expenses as part of its fee, rates, or charges for performing work under the Contract. Proposals should be prepared simply, economically, providing straightforward, concise description of proposer's ability to satisfy the requirements of the RFP.

The successful proposer will supply its own materials and will provide and pay for all labor, supervision of its employees and agents, travel, insurance, vehicles, materials, and tools necessary to provide services under the resulting contract.

The Port reserves the right to reject any or all submittals, waive informalities, and make the award in the best interest of the Port. The Port reserves the right to contact a proposer for clarifications of its proposal during the evaluation process. The successful firm should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. It is also understood that the proposal will become part of the official contract file.

ATTACHMENT #1

CONTRACT BY AND BETWEEN
THE PORT OF PASCO
AND
_____

This Contract is made and entered into on _____, between the Port of Pasco as owner and operator of the Tri Cities Airport (the "Port") and _____ a _____Corporation qualified to do business in Washington and having offices at _____ (the "Contractor").

RECITALS

The Port desires to obtain services to provide track inspection, repair, and on-call services at the Big Pasco Industrial Center (Oregon Avenue/SR 397), Heritage Rail, Pasco Processing Center Reimann Industrial Center (Railroad Avenue), and other Port-directed rail work.

On _____, the Port advertised for proposals with a Request for Proposals (“RFP”).

In accord with the evaluation criteria in the RFP, an evaluation and selection committee reviewed the timely submitted proposals and submitted its recommendation to the Board of Commissioners of the Port that the Contractor, which is in the business of providing such services, submitted the best overall proposal based on the requirements of the RFP.

The parties now desire to enter into a contract to formalize their agreement for Contractor to provide services for track inspection, repair, and on-call services at the Big Pasco Industrial Center (Oregon Avenue/SR 397), Heritage Rail, Pasco Processing Center Reimann Industrial Center (Railroad Avenue), and other Port-directed rail work.

The parties therefore agree as follows:

SECTION 1: CONTRACT DOCUMENTS

The Contract between the parties includes: (1) this document which includes Attachment No. 1; (2) the RFP, including its attachments and exhibits; and (3) the Contractor’s proposal dated _____ (the "Contract"). The listed documents are to be interpreted so as to give effect to all terms of each and to harmonize their provisions. To the extent there are provisions in the listed documents that are irreconcilable, the order of precedence is as listed in this section.

SECTION 2: SCOPE OF SERVICES TO BE RENDERED

Contractor shall provide the services as set forth in the RFP ("Scope of Work"). Contractor shall not perform work beyond the scope of this Contract except pursuant to the Port's prior written request.

The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for performing, scheduling and coordinating all portions of the work under the contract in a proper fashion and in strict compliance with all applicable codes, rules, regulations and laws.

Contractor shall carry on the Work in a safe manner, and shall comply with all applicable federal, state and local laws, regulations, standards, and recognized trade practices for the protection and safety of its employees and other persons about its Work, including without limitation those governing labor, safety, health, sanitation, and protection of the environment.

Contractor is solely responsible for protection and safety of its employees, for final selection of safety methods and means, and for establishing, supervising, inspecting and enforcing its safety obligations in accord with this Contract and applicable law.

Contractor shall defend, indemnify and hold the Port, its officers, officials, employees, engineer and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them in performance of this Contract, except for injuries and damages caused by the sole negligence of the Port. Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them and the Port, its officers, officials, employees, engineer and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence, or of any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Contract.

Unless otherwise specifically noted, the Contractor shall provide and pay for all labor and materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the work.

The Contractor shall pay prevailing wages, all sales, consumer, use, and other similar taxes required by law, and shall secure and pay for all permits, fees, and licenses necessary for execution of the work.

The Contractor will warrant to the Port that all materials and equipment furnished under the contract will be new unless otherwise specified, and that all work will be of

good quality, free from faults and defects and in conformance with the specifications. All work not so conforming to these standards may be considered defective. If required by the Port, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy afforded by law.
RCW 39.06.020 requires a public works contractor to verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification is to include that, at the time of subcontract execution, each subcontractor meets the responsibility criteria listed above and in RCW 39.04.350(1) and additionally – if applicable – possesses an electrical contractor license or an elevator contractor license.

SECTION 3: TERM OF CONTRACT

The Contractor's obligation to provide services begins the earlier of 14 days after the date of a notice to proceed from the Port or 7:00 a.m., _____, and expires at midnight _____, unless this Contract is extended. The Port has the option in its sole discretion to extend this Contract for four additional one-year periods by giving the Contractor notice of its intent to exercise each option at least 30 days before the expiration of the then current contract period. Port will have no right to an option period if the prior option period is not exercised.

SECTION 4: PRICES AND PAYMENT

A. For the term of this Contract, including extensions, the Port shall pay Contractor to perform the Scope of Work at the hourly rates set out in Attachment No. 1. In the event the Port requests the Contractor to perform other rail work as requested, the Port shall pay the Contractor the rates provided in the Price Schedule listed in Attachment No.1.

Contractor may invoice Port monthly for hours worked during the previous month. Port shall pay Contractor within 30 days after Port receives an accurate invoice with documentation showing the number and classification of employees and the hours worked for each work shift for services performed.

SECTION 5: CONTRACT ADMINISTRATION

The work to be performed by the Contractor shall at all times be subject to the general supervision and approval of the Port Executive Director or his designee.

SECTION 6: TERMINATION AND ADJUSTMENT

A. Termination for Convenience

The Port may, by written notice to the Contractor, terminate this Agreement for its convenience and without cause or default on the part of Contractor with thirty (30)

days notice. Upon receipt of the notice of termination, except as explicitly directed by the Port, the Contractor must immediately discontinue all services affected.
Upon termination of the Agreement, the Contractor must deliver to the Port all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by or for the Contractor under this contract, whether complete or partially complete.
Port agrees to make just and equitable compensation to the Contractor for satisfactory work completed up through the date the Contractor receives the termination notice. Compensation will not include anticipated profit on non-performed services.
Port further agrees to hold Contractor harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

B. Termination for Cause:

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.
The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

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

Upon receipt of the notice of termination, the Contractor must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Contractor must deliver to the Port all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by or for the Contractor under this contract, whether complete or partially complete.
Port agrees to make just and equitable compensation to the Contractor for satisfactory work completed up through the date the Contractor receives the termination notice. Compensation will not include anticipated profit on non-performed services.
Port further agrees to hold Contractor harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.
If, after finalization of the termination action, the Port determines the Contractor was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Port issued the termination for the convenience of the Port.

b) **Termination by Contractor**: The Contractor may terminate this Agreement for cause in whole or in part, if the Port:
    1. Defaults on its obligations under this Agreement;
    2. Fails to make payment to the Contractor in accordance with the terms of this Agreement;

3. Suspends the project for more than [180] days due to reasons beyond the control of the Contractor.

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

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

SECTION 7: INSURANCE AND INDEMNIFICATION

General Requirements

A. The Contractor shall procure and maintain the insurance described in all subsections of section 1-07.18 of Standard Specifications for Public Liability and Property Damage Insurance, from insurers with a current A. M. Best rating of not less than A-: VII and licensed to do business in the State of Washington. The Contracting Agency reserves the right to approve or reject the insurance provided, based on the insurer's financial condition.

B. The Contractor shall keep this insurance in force without interruption from the commencement of the Contractor's Work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated below.

C. If any insurance policy is written on a claims-made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

D. The Contractor's Automobile Liability, Commercial General Liability and Excess or Umbrella Liability insurance policies shall be primary and non-contributory insurance as respects the Contracting Agency's insurance, self-insurance, or self-insured pool coverage. Any insurance, self-insurance, or self-insured pool coverage maintained by the Contracting Agency shall be excess of the Contractor's insurance and shall not contribute with it.

E. The Contractor shall provide the Contracting Agency and all additional insureds with written notice of any policy cancellation, within two business days of their receipt of such notice.

F. The Contractor shall not begin Work under the Contract until the required insurance has been obtained and approved by the Contracting Agency.

G. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Contracting Agency may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.

H. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made.

I. Under no circumstances shall a wrap up policy be obtained, for either initiating or maintaining coverage, to satisfy insurance requirements for any policy required under this Section. A "wrap up policy" is defined as an insurance agreement or arrangement under which all the parties working on a specified or designated project are insured under one policy for liability arising out of that specified or designated project.

J. Additional Insured:

All insurance policies, with the exception of Workers Compensation, and of Professional Liability and Builder's Risk (if required by this Contract) shall name the following listed entities as additional insured(s) using the forms or endorsements required herein:

- the Port and its officers, elected officials, employees, agents, and volunteers
- BNSF Railway, if applicable
- WSDOT, if applicable
- City of Pasco, if applicable

The above-listed entities shall be additional insured(s) for the full available limits of liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract, and irrespective of whether the Certificate of Insurance provided by the Contractor pursuant to 1-07.18(4) describes limits lower than those maintained by the Contractor.

For Commercial General Liability insurance coverage, the required additional insured endorsements shall be at least as broad as ISO forms CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

K. Subcontractors:

The Contractor shall cause each subcontractor of every tier to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by subcontractors.

The Contractor shall ensure that all subcontractors of every tier add all entities listed in 1-07.18(2) as additional insureds, and provide proof of such on the policies as required by that section as detailed in 1-07.18(2) using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency evidence of insurance and copies of the additional insured endorsements of each subcontractor of every tier as required in 1-07.18(4) Verification of Coverage.

L. Verification of Coverage:

The Contractor shall deliver to the Port a Certificate(s) of Insurance and endorsements for each policy of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the Work. Failure of Port to demand such verification of coverage with these insurance requirements or failure of Port to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the Port to be equivalent.
2. Copies of all endorsements naming Port and all other entities listed in 1-07.18(2), if applicable, as additional insured(s), showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.
5. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the Port, its elected or appointed officers, agents, officials, employees, and volunteers or shall specifically allow the Contractor or others providing insurance evidence in compliance with these Specifications to waive their right of subrogation prior to a loss. The Contractor hereby waives its own right of subrogation against the Port and shall require similar written express waivers and insurance clauses from each of its subcontractors.

Upon request by the Port, the Contractor shall forward to the Port a full and certified copy of the insurance policy(s). If Builders Risk insurance is required on this Project, a full and certified copy of that policy is required when the Contractor delivers the signed Contract for the Work.

M. Coverages and Limits:

The insurance shall provide the minimum coverages and limits set forth below. Contractor's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Port's recourse to any remedy available at law or in equity.

All deductibles and self-insured retentions must be disclosed and are subject to approval by the Port. The cost of any claim payments falling within the deductible or self-insured retention shall be the responsibility of the Contractor. In the event an additional insured incurs a liability subject to any policy's deductibles or self-insured retention, said deductibles or self-insured retention shall be the responsibility of the Contractor.

N. Commercial General Liability:

Commercial General Liability insurance shall be written on coverage forms at least as broad as ISO occurrence form CG 00 01, including but not limited to liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage.

The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent

endorsement.
Contractor shall maintain Commercial General Liability Insurance arising out of the Contractor's completed operations for at least three years following Substantial Completion of the Work.
Such policy must provide the following minimum limits:
$2,000,000 Each Occurrence
$3,000,000 General Aggregate
$3,000,000 Products & Completed Operations Aggregate
$2,000,000 Personal & Advertising Injury each offence
$2,000,000 Stop Gap / Employers' Liability each accident
1-07.18(5)B Automobile Liability
O. Automobile Liability shall cover owned, non-owned, hired, and leased vehicles; and shall be written on a coverage form at least as broad as ISO form CA 00 01. If the Work involves the transport of pollutants, the automobile liability policy shall include MCS 90 and CA 99 48 endorsements.
Such policy must provide the following minimum limit:
$1,000,000 Combined single limit each accident
P. 1-07.18(5)C Workers' Compensation
The Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington

SECTION 8: INDEMNIFICATION/HOLD HARMLESS.

Contractor shall defend, indemnify and hold the Port, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Port. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Port, its officers, officials, employees, and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

SECTION 9: NON-DISCRIMINATION

Civil Rights. In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, creed, sex, age, or disability be exclude from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. This provision binds the Contractor and subcontractors from the

bid solicitation period through the completion of the contract. If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the Contractor. The above provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration.

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

- 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) including amendments thereto;
- 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 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- 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 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (P.L. 100-259) (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 and 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 (42 U.S.C. § 12101, et seq.) (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) as implemented by U.S. Department of Transportation regulations at 49 CFR Parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discrimination because of sex in education programs or activities (20 U.S.C. § 1681, et seq).

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

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

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

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the Nondiscrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to (a) Withholding payments to the Contractor under the contract until the Contractor complies; and/or (b) cancelling, terminating, or suspending a contract, in whole or in part.

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

SECTION 10: RECORDS AUDIT

The Contractor shall maintain such account records in connection with its performance of services for the Port as may be reasonably required by the Port. Such account records shall be kept for a period of three years following the termination of this Contract. The Contractor shall afford the Port's agents and auditors reasonable facilities and access for the examination and audit of its records pertaining to its performance and shall, upon request of the Port, produce and exhibit all such records.

SECTION 11: GOVERNING LAW, ATTORNEYS FEES

A. This Agreement is entered into and performable in Franklin County, Washington, and shall be governed by and construed in accordance with the laws of the state of Washington, without regard to conflicts of laws principles. Contractor and Port hereby submit to the exclusive jurisdiction of the Franklin County Superior Court in any action or proceeding arising out of or relating to this Agreement, and Contractor and Port hereby irrevocably agree that all claims and counterclaims in respect of any such action or proceeding shall be heard and determined in such court. Contractor and Port each waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, which they may now or hereafter have to the bringing of any such action or proceeding in any such court. The prevailing party shall be entitled, whether or not a suit, action or arbitration proceeding is instituted, to recover all costs incurred in connection with the dispute, including without limitation reasonable attorneys' and expert witness fees, whether at trial, on appeal or denial of any petition for review, or in connection with enforcement of any judgment.

B. Waiver of Jury Trial. Each of the parties hereby irrevocably and unconditionally waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

SECTION 12: COMPLIANCE WITH LAW

Contractor shall comply at all times during the term of this Contract, at its own cost and expense, with all applicable present and future ordinances, rules, regulations and laws of the Port, county or state government or of the United States Government, and of any political division, subdivision or agency, the Port commission which may have jurisdiction to pass laws or ordinances with respect to the matters addressed in this Contract.

SECTION 13: SUCCESSORS AND ASSIGNS BOUND BY COVENANT

All the terms, covenants, and agreements in this Contract are binding upon and will inure to the benefit of successors, assigns, and legal representatives of the parties.

SECTION 14: NONWAIVER OF RIGHTS

No waiver of default by either party of any of the terms, covenants, and conditions of this Contract will be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions of this Contract.

SECTION 15: SEVERABILITY

If one or more clauses, sections, or provisions of this Contract, or their application, are held to be unlawful, invalid, or unenforceable, the remainder of this Contract and the application of its remaining provisions will not be affected thereby.

SECTION 16: PARAGRAPH HEADINGS

The paragraph headings contained in this Contract are for convenience in reference and are not intended to define or limit the scope of any provision.

SECTION 17: ENTIRE AGREEMENT

This Contract, as described in Section 1 hereinabove, together with all exhibits and attachments, constitutes the entire agreement between the parties, and all other promises, representations or statements heretofore made, verbal or written, are merged in this Contract.

SECTION 18: LICENSES AND PERMITS

Contractor shall obtain all applicable licenses and permits as required by federal, state, or local law.

SECTION 19: AGREEMENT CONSTRUCTION

Words and phrases in this Contract are to be construed as in the singular or plural number, as masculine, feminine, or neuter gender, and as disjunctive or conjunctive, according to the context. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not apply to the interpretation of this Contract or any amendments to this Contract.

SECTION 20: REPRESENTATIONS OF PARTIES

Port and Contractor represent that each has the full power and proper authority to make and execute this Contract, to exercise its rights, powers and privileges as described, and to perform the agreements and covenants. Contractor further warrants that it has the authority to enter into and be bound by the terms of this Contract and no order of any bankruptcy or other court, and no agreement with others, prohibits or limits such authority.

SECTION 21: NO THIRD PARTY BENEFICIARIES

It is not the intention of the parties by entering into this Contract to create any rights in any person not a party to this Contract.

SECTION 22: NOTICES, PAYMENTS AND INVOICES

All notices which the parties are authorized or required to give one another pursuant to this Contract, and all reports, payments and invoices, must be in writing and may be personally delivered or sent by ordinary mail to the addresses provided below. Mailed notices, reports, payments or invoices will be deemed to be received by the party to whom directed when they are postmarked. Such notices, reports, payments and invoices must be delivered or mailed to the following persons at the addresses listed:

Port: Port of Pasco
1110 Osprey Pointe Blvd., Ste 2
Pasco, WA 99301

Contractor: _____
_____
_____

SECTION 23: PROHIBITED ACTIVITIES

Contractor shall ensure that its personnel will not engage in any action while on duty that would hinder the fulfillment of their duties. Prohibited activities include but are not limited to:

A. Conducting private business;
B. Drinking intoxicating beverages or using illegal drugs or controlled substances;
C. Reporting to duty under the influence of intoxicating beverages, illegal drugs or controlled substances;

D. Gambling or engaging in other illegal activity;
E. Sexual conduct;
F. Allowing unauthorized persons to accompany them while on duty;

G. Engaging in inappropriate or extended casual conversation or acting in an offensive manner toward the public.

SECTION 24: OTHER REQUIREMENTS OF CONTRACTOR

A. All subcontracts that result from this contract 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. The Contractor has full responsibility to monitor compliance to the FLSA and its regulations, and will address any claims or disputes that arise from this requirement directly with the U. S. Department of Labor - Wage and Hour Division.

B. All contracts and subcontracts that result from this contract incorporate by reference the requirements of 29 CFR 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR 1910). Contractor 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.

C. Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). The Contractor agrees to report any violation to the Port immediately upon discovery. The Port assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

D. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

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) of this clause, the Contractor and any subcontractor responsible therefore 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) of this clause, in the sum of $33 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) of this clause.
Withholding for Unpaid Wages and Liquidated Damages.
The Federal Aviation Administration (FAA) or the Port 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 moneys 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) of this clause.
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 clause.

E. COPELAND "ANTI-KICKBACK" ACT
Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Port, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Port must report any violations of the Act to the Federal Aviation Administration.

F. DAVIS-BACON REQUIREMENTS

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under regulations implementing the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage

determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Port 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 the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Port, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Port, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (*e.g.,* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at *https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-*

certification or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the Port for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the Port.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, or Port, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of

Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at no less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate

that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors 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 all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

G. CERTIFICATION REGARDING LOBBYING

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

(1) No Federal appropriated funds have been paid or will be paid, by or on

behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

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

H. PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or

2) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

SECTION 25: THE DEFEND TRADE SECRETS ACT

The Defend Trade Secrets Act provides that an individual may not be held criminally

or civilly liable under any federal or state trade secret law for disclosure of a trade secret: (1) made in confidence to a government official, either directly or indirectly, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law; and/or (2) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Additionally, an individual suing an employer for retaliation based on the reporting of a suspected violation of law may disclose a trade secret to his or her attorney and use the trade secret information in the court proceeding, so long as any document containing the trade secret is filed under seal and the individual does not disclose the trade secret except pursuant to court order.

SECTION 26: CONTRACTOR EMPLOYEES

It is understood that the Contractor is not providing an employment service; Port agrees not to employ any of the Contractors employees during the contract or 120 days subsequent to the termination of the contract. If the Port chooses to waive this agreement for each employee hired, the Port agrees to pay the contractor compensation equal to six months wages for the employee plus reasonable attorney fees if it becomes necessary for collection. This provision does not impose upon the Port a duty to prevent another contractor with the Port from hiring Contractor's employees.

SECTION 27: INDEPENDENT CONTRACTOR

Contractor represents, warrants and understands that it is an independent contractor and employing unit, duly licensed to perform the Work (including without limitation state contractor registration), subject to all applicable Social Security, Unemployment Compensation and Workers' Compensation statutes, and shall keep records and make reports and payments of all taxes or contributions required. Contractor agrees to indemnify, defend and hold Port harmless from any expenses or liability incurred under such statutes in connection with employees of Contractor.

If any Work hereunder is performed by principals of Contractor who are not covered by Workers' Compensation, the principals agree that they shall have no claim against Port or its insurers or its Workers' Compensation coverage in the event they are injured while performing such Work.

SECTION 28: SEPARATE CONTRACTS

The Port reserves the right to award other contracts in connection with other portions of the project.

IN WITNESS WHEREOF the parties are executing this Contract by their duly authorized representatives.

PORT OF PASCO _____

By: _____ By: _____

Its: _____ Its: _____