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**AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
AVIATION SYSTEMS ENGINEERING COMPANY, INC.
FOR
FEDERALLY FUNDED RESEARCH & DEVELOPMENT CENTER ADVOCATE**

THIS AGREEMENT is made and entered into in duplicate this 30 day of April, 2014 (hereinafter the "Effective Date"), by and between the CITY OF JACKSONVILLE, a municipal corporation existing under the Constitution and the laws of the State of Florida, (hereinafter the "CITY") and AVIATION SYSTEMS ENGINEERING COMPANY, INC, a foreign profit corporation with an office at 7255 Golden Wings Road, Unit 2, Jacksonville, Florida 32267 (hereinafter the "CONSULTANT"), for federally funded research and development center advocate (hereinafter the "Project").

RECITALS:

WHEREAS, the CITY is in need of professional services for the Project; and

WHEREAS, CONSULTANT submitted a proposal to the City; and

WHEREAS, the CITY and CONSULTANT have negotiated mutually satisfactory terms for the execution of this Project; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained, the CITY hereby engages CONSULTANT for the Project in accordance with the following:

ARTICLE 1: Engagement of CONSULTANT:

1.01. CITY hereby engages CONSULTANT and CONSULTANT hereby accepts said engagement for the purpose of providing to CITY professional services for the Project, as

described in and according to the provisions of the "Scope of Services," attached hereto as **Exhibit A** (the "Services") and made a part hereof by this reference.

1.02. If any services, functions, or responsibilities not specifically described in this Agreement are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the scope of the Services to the same extent and in the same manner as if specifically described in this Agreement and/or the Scope of Services. The CONSULTANT shall be responsible for providing the equipment, supplies, personnel (including management, employees, and training), and other resources as necessary to provide the Services.

ARTICLE 2: Coordination and Services Provided by CITY:

CITY shall designate for the Services received a Project Coordinator who will, on behalf of the CITY, coordinate with CONSULTANT and administer this Agreement according to the terms and conditions contained herein and in the exhibits attached hereto and made a part hereof. It shall be the responsibility of CONSULTANT to coordinate all project-related activities with the designated Project Coordinator. The CITY's Project Coordinator shall be: Harrison Conyers, Veterans and Community Outreach Manager (Office (904) 630-3621; Cell (904) 860-9408; Fax (904) 630-3422; Email HCONYERS@coj.net).

ARTICLE 3: Duration of Agreement, Termination and Default:

3.01. The term of this Agreement shall become effective as of the Effective Date and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein for a one (1) year period unless sooner terminated by either party, with or without cause, by giving of not less than thirty (30) days' prior written notice to the other party to this Agreement. This Agreement may be renewed for one (1) additional one (1) year period upon

terms and conditions mutually agreeable to the parties.

3.02. Should either party default in its obligations under this Agreement, the non-defaulting party shall provide written notice to the defaulting party of the default. The defaulting party shall be given ten (10) business days from receipt of the notice of default (or any such other amount of time agreed to by the parties in writing) to remedy the default. If the default is not remedied within such time frame, the non-defaulting party may terminate this Agreement as provided in Section 3.01 hereof.

3.03. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the CITY may terminate this Agreement at any time in the event of loss of funding for any reason by giving CONSULTANT twenty-four (24) hours' oral notice with written confirmation following.

3.04. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, in the event of a default, the non-defaulting party shall be entitled to all available remedies at law or equity.

3.05. In the event this Agreement is terminated, CONSULTANT shall be paid for any unpaid billings for all Services performed up to the date of receiving notice of termination and reasonable costs and fees associated with an orderly close-out of the work to the extent authorized in writing by the CITY.

ARTICLE 4. Meetings and Public Hearings:

CONSULTANT must attend all meetings and public hearings relative to the Services being performed by it where its presence is determined to be necessary and requested by CITY, and CONSULTANT can reasonably schedule its appearance.

ARTICLE 5: Delays:

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such obligation is prevented or delayed by any cause beyond the reasonable control of the affected party, and the time for performance of either party hereunder shall in such event be extended for a period equal to any time lost due to such prevention or delay.

ARTICLE 6: Suspension of Services:

The CITY may suspend the performance of the Services rendered by providing five (5) days' written notice of such suspension. Schedules for performance of the Services shall be amended by mutual agreement to reflect such suspension. In the event of suspension of Services, CONSULTANT shall resume the full performance of the Services when directed in writing to do so by the Project Coordinator. Suspension of Services for reasons other than CONSULTANT'S negligence or failure to perform shall not affect CONSULTANT'S compensation as outlined in this Agreement.

ARTICLE 7: Payments for Services of CONSULTANT:

7.01. The CITY will compensate CONSULTANT for the Services rendered hereunder in accordance with the following terms:

7.01.01. CONSULTANT'S professional fees under the terms of the Agreement shall be those contained in the Fee Schedule, attached hereto as **Exhibit B** and incorporated herein by this reference, for the term of this Agreement. CONSULTANT'S professional fees shall be billed monthly for Services provided the previous month using invoices and such other documentation satisfactory to the CITY to allow and authorize payment. Each such invoice shall

include the amount of payment requested, the amount previously paid, the total contract value, the percent completed since the last invoice, the total percent completed to date, and any other such information as may be reasonable and necessary to secure the written approval of the invoice by the CITY's Project Coordinator. Each invoice shall contain a statement that it is made subject to the provisions and penalty of Section 837.06, Florida Statutes. Payments shall be made within forty-five (45) days after receipt of said invoices or other documentation by the CITY. To the extent that professional fees include reimbursement for travel or travel-related expenses, such travel and travel-related expenses shall be subject to and governed by the provisions and limitations of Chapter 106, Part 7, *Ordinance Code*.

7.01.02. The maximum indebtedness of the CITY for all fees, reimbursable items, or other costs for Services provided by CONSULTANT pursuant to this Agreement shall not exceed the sum of ONE HUNDRED EIGHTY-SEVEN THOUSAND EIGHT HUNDRED THIRTEEN AND 00/100 USD (\$187,813.00) for the term of this Agreement.

7.02. The CITY's obligations under this Agreement are contingent upon the availability of lawfully appropriated funds for the Project and this Agreement.

ARTICLE 8: Indemnity:

8.01. CONSULTANT and without limitation its employees, agents, and sub-consultants, (individually or collectively the "Indemnifying Parties"), shall hold harmless, indemnify, and defend the City, including without limitation its officers, directors, employees, representatives, and agents (individually or collectively the "Indemnified Parties") from and against:

8.01.01. General Tort Liability, including without limitation any and all claims, actions, losses, damages, injuries, liabilities, costs, and expenses of whatsoever kind or nature

(including but not limited to attorney's fees and court costs) arising out of injury (whether mental or corporeal) to persons, including death, or damage to property arising out of or incidental to the Indemnifying Parties' negligent performance of this Agreement or work performed hereunder; and

8.01.02. Intellectual Property Liability, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities, and expenses (including all costs for investigation and defense thereof, including but not limited to court costs, reasonable expert witness fees, and attorney's fees), arising directly or indirectly out of any allegation that the Services, any product generated by the Services, or any part of the Services constitutes an infringement of any copyright, patent, trade secret, or any other intellectual property right, and will pay all costs (including but not limited to attorney's fees and court costs), damages, charges, and expenses charged to the Indemnified Parties by reason thereof. If in any suit or proceeding the Services or any product generated by the Services is held to constitute an infringement and its use is permanently enjoined, the Indemnifying Parties shall immediately make every reasonable effort to secure for the Indemnified Parties a license authorizing the continued use of the Service or product. If the Indemnifying Parties fail to secure such a license for the Indemnified Parties, then the Indemnifying Parties shall replace the Service or product with a non-infringing Service or product or modify such Service or product in a way satisfactory to the City so that the Service or product is non-infringing; and

8.01.03. Violation of Laws Liability, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities, and expenses (including all costs for investigation and defense thereof, including but not limited to court costs,

reasonable expert witness fees, and attorney's fees) arising from or based upon the violation of any federal, state, or municipal laws, statutes, resolutions, rules, or regulations by the Indemnifying Parties or those under their control; and

8.01.04. Liability from Breach of Representations, Warranties, and Obligations, including without limitation any and all claims, suits, demands, judgments, losses, costs, fines, penalties, damages, liabilities, and expenses (including all costs for investigation and defense thereof, including but not limited to court costs, reasonable expert witness fees, and attorney's fees) which may be incurred by, charged to, or recovered from any of the foregoing arising directly or indirectly out of (a) any breach of any representation or warranty made by the Indemnifying Parties in connection with this Agreement or in any certificate, document, writing, or other instrument delivered by the Indemnifying Parties pursuant to this Agreement or (b) any breach of any covenant or obligation of the Indemnifying Parties set forth in this Agreement or any other certificate, document, writing, or other instrument delivered by the Indemnifying Parties pursuant to this Agreement.

8.02. Subject to the provisions and limitations of Section 768.28, Florida Statutes, CITY will indemnify, protect, and hold harmless CONSULTANT from and against any claim, action, loss, damage, injury, liability, cost, and expense of whatsoever kind or nature arising out of injury (whether mental or corporeal) to persons, including death, or damage to property caused by the negligent acts and omissions of CITY or its employees in the performance of this Agreement. Notwithstanding any provision to the contrary in this Agreement or in any exhibit hereto, this indemnification is not, nor shall it be construed as, a further waiver of CITY's sovereign immunity beyond the limited legislative waiver thereof in Section 768.28, Florida

Statutes, enacted pursuant to authority from Article X, Section 13, Florida Constitution (1968 Rev.), as amended.

8.03. CONSULTANT and CITY shall not be responsible to each other for any special, incidental, indirect, or consequential damages, including lost profits, incurred by either CONSULTANT or CITY or for which either party may be liable to any third party, which damages have been or are occasioned by Services performed or reports prepared or other work performed hereunder.

8.04. The indemnifications in Section 8.01 are separate and apart from, and are in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This Article 8 relating to indemnification shall survive the term of this Agreement and any holdover and/or contract extensions thereto, whether such term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement.

ARTICLE 9: Insurance:

9.01.01. Without limiting its liability under this Contract, the CONSULTANT shall at all times during the term of this Agreement either (i) procure and maintain a valid insurance program of self-insurance or (ii) procure and maintain at its sole expense during the life of this Agreement (and CONSULTANT shall require its contractors, subcontractors, laborers, materialmen, and suppliers to provide, as applicable), insurance of the types and in the minimum amounts stated below, and prior to work commencement provide a certificate on a form that is acceptable to the CITY's Division of Risk Management evidencing the following required coverages to the CITY:

Schedule

Limits

Worker's Compensation
Employer's Liability

Florida Statutory Coverage
\$1,000,000 Each Accident
\$1,000,000 Disease Policy Limit
\$1,000,000 Each Employee/Disease

CONSULTANT's workers' compensation insurance shall cover the CONSULTANT (and to the extent its subcontractors and sub-subcontractors are not otherwise insured, its subcontractors and sub-subcontractors) for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy, as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI), without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which, under an NCCI filing, must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, coverage is to be included for the Federal Employers' Liability Act and any other applicable federal or state law where appropriate. If CONSULTANT is not required to carry workers' compensation coverage as defined under Chapter 440, Florida Statutes, the above requirement may be waived. CONSULTANT shall provide to Jacksonville written confirmation verifying the exemption on CONSULTANT's letterhead, certified and signed by an officer or authorized representative of CONSULTANT).

Commercial General Liability – (Form CG0001)

ISO Form CG0001 as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or equivalent manuscript form, must be attached to the policy equivalent endorsement as filed with ISO (i.e., mandatory endorsement).

Commercial General Liability	\$2,000,000	General Aggregate
	\$2,000,000	Products & Completed Ops Agg
	\$1,000,000	Personal/Advertising Injury
	\$1,000,000	Each Occurrence
	\$50,000	Fire Damage
	\$5,000	Medical Expenses
Automobile Liability (Coverage for all automobiles- owned, hired, or non-owned)	\$1,000,000	Total Any One Accident

The CITY of Jacksonville shall be endorsed as an additional insured under all of the above Commercial General Liability and Automobile Liability coverages. Such insurance shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of the CITY).

Professional Liability \$1,000,000 per Claim & Aggregate

Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement and with a three year reporting option beyond the annual expiration date of the policy. The coverage shall include additional coverage for Network and Information Security Offenses and Electronic Data (products) E&O.

Valuable Papers & Records: \$100,000

9.01.02. The deductible amounts for any peril shall be deemed usual and customary in the insurance industry. CONSULTANT shall be responsible for payment of its deductible(s). Depending upon the nature of any aspect of any project and its accompanying exposures and liabilities, the CITY may, at its sole option, require additional insurance coverages in amounts responsive to those liabilities, which may or may not require that the CITY also be named as an additional insured.

9.01.03. Said insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes. Such insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better. Prior to commencing any work on the Project, Certificates of Insurance approved by the CITY's Division of Risk Management demonstrating the maintenance of said insurance shall be furnished to the CITY. CONSULTANT shall be responsible for providing continuation certificate of insurance 30 days prior to each renewal policy for the length of the Agreement. CONSULTANT shall provide to the City of Jacksonville thirty (30) days' prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal.

9.01.04. Anything to the contrary notwithstanding, CONSULTANT's liabilities under this Agreement shall survive and not be terminated, reduced, or otherwise limited by any expiration or termination of insurance coverage. Neither approval of, nor failure to disapprove, insurance furnished by CONSULTANT shall relieve CONSULTANT or its sub-contractors or sub-subcontractors from the responsibility to provide insurance as required by this Agreement. In case any class of employees engaged in hazardous work under the Agreement is not protected under the Workers' Compensation statute, CONSULTANT shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the CITY for the protection of employees not otherwise protected. For any insurance coverage required hereby, CONSULTANT may use a self-insurance program, provided such program has received prior written approval from the CITY's Risk Manager.

ARTICLE 10: Accuracy of Work:

10.01. In providing the Services under this Agreement, CONSULTANT, including its officers, employees, agents, and subconsultants, shall exercise that degree of skill and care required by customarily accepted good practices and procedures for the performance of the same or similar services. CONSULTANT shall be responsible for the accuracy of its work, including work by any subconsultants, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of CONSULTANT or subconsultants at no additional compensation. Acceptance of the work by the CITY shall not relieve CONSULTANT of the responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.

10.02. At any time during the provision of Services under this Agreement or during any phase of work performed by others based on data furnished by CONSULTANT under this Agreement, CONSULTANT shall confer with the CITY for the purpose of interpreting the information furnished and/or correcting any errors and/or omissions made by CONSULTANT. CONSULTANT shall prepare all drawings or data to correct its errors and/or omissions without added compensation even though final payment may have been received therefor.

10.03. CONSULTANT shall be and remain liable in accordance with applicable law, and shall indemnify, hold harmless, and defend the CITY for all damages to the CITY caused by CONSULTANT's breach of contract or its negligent performance of any Services under this Agreement. CONSULTANT shall not be responsible, however, for any time delays in the Project caused by circumstances beyond CONSULTANT's control.

ARTICLE 11: Nonwaiver:

Failure by either party to insist upon strict performance of any of the provisions hereof, either party's failure or delay in exercising any rights or remedies provided herein, the CITY's payment for the Services or any part or combination thereof, or any purported oral modification or rescission of this Agreement by an employee or agent of either party shall not release either party from its obligations under this Agreement, shall not be deemed a waiver of any rights of either party to insist upon strict performance hereof or of either party's rights or remedies under this Agreement or by law, and shall not operate as a waiver of any of the provisions hereof.

ARTICLE 12: Ownership of Documents and Equipment:

CONSULTANT agrees that upon completion of the services, all drawings, designs, specifications, renderings, notebooks, tracings, photographs, negatives, reports, findings, recommendations, software, source codes, data, and memoranda of every description arising out of or relating to the Services are to become the property of the CITY, as well as all reference books, equipment, expendable equipment, and materials purchased with Project funds. The use of these materials in any manner by the CITY shall not support any claim by CONSULTANT for additional compensation. CONSULTANT shall have no liability to the CITY for damages, claims, and losses, including defense costs, arising out of any use of the aforementioned documents for any purpose other than as set forth in this Agreement without the written authorization of CONSULTANT.

ARTICLE 13: Compliance with State and Other Laws, Licenses, and Certifications:

Pursuant to the legislative requirements in Section 126.108, *Ordinance Code*, in the provision of the Services, CONSULTANT must comply with any and all applicable federal,

state, and local laws, rules, regulations, and ordinances as the same exist and may be amended from time to time. Such laws, rules, regulations, and ordinances shall include but are not limited to Chapter 119, Florida Statutes, (the Florida Public Records Law) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). Such laws, rules, regulations, and ordinances must also include but are not limited to obtaining and maintaining all licenses and certifications that are required to perform the Services contemplated in this Agreement in the City of Jacksonville, State of Florida. If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Article 13 shall be incorporated into and become a part of the subcontract.

ARTICLE 14: Non-Discrimination Provisions:

Pursuant to the legislative requirements of Section 126.404, *Ordinance Code*, CONSULTANT represents that it has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, or handicap in all areas of employment relations throughout the term of this Agreement. CONSULTANT agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the Executive Director of the Community Relations Commission or successor agency or commission for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement; *provided however*, that CONSULTANT shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. CONSULTANT agrees that if any of the Services to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of

this Article 14 shall be incorporated into and become a part of the subcontract.

ARTICLE 15: Equal Employment Opportunity.

The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the provisions of the Equal Opportunity for Individuals with Disabilities Act in 42 U.S.C. Section 12112, the Listing of Employment Openings for Veterans Clause in Title 41, Part 50-260.2 of the Code of Federal Regulations, and the Disabled Veterans and Veterans of the Vietnam Era Clause in Title 41, Part 60-250.5 of the Code of Federal Regulations, are incorporated herein by reference if and to the extent applicable. If CONSULTANT is exempt from any of the above cited terms, written evidence of such exempt status must be provided to the CITY.

ARTICLE 16: Contingent Fees Prohibited:

In conformity with Section 126.306, *Ordinance Code*, CONSULTANT warrants that it has not employed or retained any company or person other than a bona fide employee working solely for CONSULTANT to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONSULTANT any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, the CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

ARTICLE 17: Truth in Negotiation:

In conformity with Section 126.305, *Ordinance Code*, CONSULTANT understands and

agrees that execution of this Agreement by CONSULTANT shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 126.305, *Ordinance Code*, for professional services contracts over sixty-five thousand dollars (\$65,000.00). Pursuant to such certificate, CONSULTANT hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, CONSULTANT agrees that the compensation hereunder shall be adjusted to exclude any significant sums where the CITY determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

ARTICLE 18: Independent Contractor:

In the performance of this Agreement, CONSULTANT shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture, or associate of the CITY. CONSULTANT shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized in the full performance of this Agreement.

ARTICLE 19: Retention of Records/Audit:

19.01. CONSULTANT must establish and maintain books, records, contracts, subcontracts, papers, financial records, supporting documents, statistical records, goods, services, and all other documents in whatsoever form or format, including but not limited to electronic storage media (hereinafter for purposes of this Article 19 the "Records") sufficient to reflect all receipt and expenditures of funds provided by the CITY under this Agreement.

19.02. CONSULTANT must retain all Project Records pertinent to this Agreement for a period of three (3) years after completion of the Project. If an audit has been initiated and audit findings have not been resolved at the end of six years, the Records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the CITY. Records shall be retained for longer periods when the retention period exceeds the time frames required by law or ordinance.

19.03. Upon demand at no additional cost to the CITY, CONSULTANT must facilitate the duplication and transfer of any Records during the required retention period in Section 19.02 hereof.

19.04. CONSULTANT must provide these Records at all reasonable times for inspection, review, copying, or audit by the CITY.

19.05. At all reasonable times for as long as the Records are maintained, CONSULTANT must allow persons duly authorized by the CITY to have full access to and the right to examine any of the Records regardless of the form in which kept.

19.06. CONSULTANT, at its sole and exclusive cost and expense, must provide audits or reports as requested by the CITY and must insure that all related party transactions are disclosed to the auditor.

19.07. CONSULTANT must comply and cooperate immediately with any inspections, reviews, or investigations deemed necessary by the CITY.

19.08. CONSULTANT must permit the CITY to interview any employees, subcontractors, and subcontractor employees of CONSULTANT to assure the CITY of the satisfactory performance of the terms and conditions of this Agreement. Following such review,

if performance of CONSULTANT is, in the opinion of the CITY, deficient, the CITY will deliver to CONSULTANT a written report of the deficiencies and request for development by CONSULTANT of a corrective action plan. CONSULTANT hereby agrees to prepare and submit to the CITY said corrective plan within ten (10) days of receiving the CITY's written report. Thereafter, CONSULTANT must correct all deficiencies in the corrective action plan within ten (10) days of the CITY's receipt of the corrective action plan.

19.09. All reports, audits, and other information provided by CONSULTANT pursuant to this section shall contain the following statement: "The information provided to the City of Jacksonville in this submittal is submitted under penalties of perjury, under Section 837.06, Florida Statutes."

19.10. To the extent that CONSULTANT uses subcontractors in the performance of the Services under this Agreement or assigns this Agreement with prior CITY consent, CONSULTANT must include the aforementioned audit, inspections, investigations, and record keeping requirements in all subcontracts and assignments.

ARTICLE 20: Governing State Law/Venue/Severability:

The rights, obligations, and remedies of the parties as specified under this Agreement shall be interpreted and governed in all aspects by the laws of the State of Florida. Should any provision of this Agreement be determined by the courts to be illegal or in conflict with any law of the State of Florida, the validity of the remaining provisions shall not be impaired. Venue for litigation of this Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.

ARTICLE 21: Article Headings:

Article headings appearing herein are inserted for convenience or reference only and shall in no way be construed to be interpretations of text.

ARTICLE 22: Construction:

Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement. The rule sometimes referred to as "*Fortius Contra Proferentem*" shall not be applied to the interpretation of this Agreement.

ARTICLE 23: Successors and Assigns/Personal Liability:

CITY and CONSULTANT each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement, and any assignment or transfer by CONSULTANT of its interests in this Agreement without the prior written consent of the CITY shall be void, in the sole discretion of the CITY. Nothing herein shall be construed as creating any personal liability on the part of any officer, employee, or agent of the CITY.

ARTICLE 24: Notice:

All notices under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

24.01. As to the CITY:

Harrison Conyers, Veterans and Community Outreach Manager
117 West Duval Street, Suite 175
Jacksonville, Florida 32202

24.02. As to the CONSULTANT:

Brent Klavon
7255 Golden Wings Road, Suite 2
Jacksonville, Florida 32244

ARTICLE 25: CONSULTANT Defined:

As used herein, the term "CONSULTANT" shall include but not be limited to Aviation Systems Engineering Company, Inc., its officers, employees, agents, subconsultants, and other persons, firms, partnerships, corporations, or other entities working for it or on its behalf.

ARTICLE 26: Ethics in Professional Service Agreements:

CONSULTANT represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

ARTICLE 27: Conflict of Interest:

The parties will follow the provisions of Section 126.112, *Ordinance Code*, with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the CITY, to the extent the parties are aware of the same.

ARTICLE 28: Public Entity Crimes Notice:

The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List following a conviction for a public entity crime may not: submit a bid on a contract to provide any goods or services to a public entity; submit a bid on a contract with a public entity for the construction or repair of a public building or public work; submit bids on leases of real property to a public entity; be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; or,

transact business with any public entity in excess of \$25,000.00 for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

ARTICLE 29: Entire Agreement/Amendments:

29.01 This Agreement constitutes the entire agreement between the parties hereto for the Services to be performed and furnished by CONSULTANT hereunder. No statement, representation, writing, understanding, agreement, course of action, or course of conduct made by either party or any representative of either party which is not expressed herein shall be binding.

29.02 All changes to, additions to, modifications of, or amendments to this Agreement or any of the terms, provisions, and conditions hereof shall be binding only when in writing and signed by the authorized officer, agent, or representative of each of the parties hereto.

ARTICLE 30: Prompt Payment:

30.01 *Generally.* When CONSULTANT receives payment from the CITY for labor, services, or materials furnished by subconsultants or subcontractors and suppliers hired by CONSULTANT, CONSULTANT shall remit payment due (less proper retainage) to those subconsultants, subcontractors, and suppliers within fifteen (15) calendar days after CONSULTANT's receipt of payment from the CITY. Nothing herein shall prohibit CONSULTANT from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subconsultants, subcontractors, and suppliers. In the event of such dispute, CONSULTANT may dispute the disputed portion of any such payment only after the CONSULTANT has provided notice to the CITY and to the subconsultant, subcontractor, and supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and, (iv) be delivered

to the CITY and said subconsultant, subcontractor, or supplier within ten (10) calendar days after CONSULTANT's receipt of payment from the CITY. CONSULTANT shall pay all undisputed amounts due within the time limits imposed by this section.

30.02. *Jacksonville Small and Emerging Business Enterprise and Minority Business Enterprise Participation.* Notwithstanding Chapter 126, Part 6, *Ordinance Code*, CONSULTANT shall pay all contracts awarded with certified Jacksonville Small and Emerging Business Enterprises ("JSEB") and Minority Business Enterprises ("MBE"), as defined therein, their pro rata share of their earned portion of the progress payments made by the CITY under this Agreement within seven (7) business days after CONSULTANT's receipt of payment from the CITY (less proper retainage). The pro rata share shall be based on all work completed, materials and equipment furnished, or services performed by the certified JSEB or MBE at the time of payment. As a condition precedent to progress and final payments to the CONSULTANT, the CONSULTANT shall provide to the CITY, with its requisition for payment, documentation that sufficiently demonstrates that CONSULTANT has made proper payments to its certified JSEB's or MBE's from all prior payments the CONSULTANT has received from the CITY. CONSULTANT shall not unreasonably withhold payments to certified JSEB's and MBE's if such payments have been made to CONSULTANT. If CONSULTANT withholds payment to its certified JSEB's or MBE's, which payment has been made by the CITY to CONSULTANT, CONSULTANT shall return said payment to the CITY. CONSULTANT shall provide notice to the CITY and to the certified JSEB's or MBE's whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and, (iv) be delivered to the CITY and said JSEB's or MBE's within five (5)

calendar days after CONSULTANT's receipt of payment from the CITY. CONSULTANT shall pay all undisputed amounts due within the time limits imposed in this section. The failure to pay undisputed amounts to the JSEB's or MBE's within seven (7) business days shall be a breach of this Agreement, compensable by one per-cent (1%) of the outstanding invoice being withheld by the CITY, not as a penalty but as liquidated damages to compensate for the additional contract administration by the CITY.

30.03. *Third Party Liability.* The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between the CITY and any subconsultant, subcontractor, supplier, JSEB, MBE, or any third party, or create any CITY liability for CONSULTANT's failure to make timely payments hereunder. However, CONSULTANT's failure to comply with the Prompt Payment requirements shall constitute a material breach of CONSULTANT's contractual obligations to the CITY. As a result of said breach, the CITY, without waiving any other available remedy it may have against CONSULTANT, may issue joint checks and charge the CONSULTANT a 0.2% daily late payment interest charge or the charges specified in said Chapter 126, *Ordinance Code*, for JSEB's or MBE's and in Chapter 218, Florida Statutes, for non-JSEB's or non-MBE's, whichever is greater.

ARTICLE 31: Incorporation by Reference:

The "Whereas" recitals at the beginning of this Agreement are true and correct are made a part hereof and are incorporated herein by this reference. Similarly, all exhibits and other attachments to this Agreement that are referenced in this Agreement are made a part hereof and are incorporated herein by this reference.

ARTICLE 32: Order of Precedence:

In the event of any conflict between or among the provisions of this Agreement and those of any exhibit attached hereto or of any amendment, the priority in decreasing order of precedence shall be: 1) fully executed amendment; 2) provisions in this Agreement; and, 3) exhibits to this Agreement.

ARTICLE 33: Counterparts

This Agreement and all amendments thereto may be executed in several counterparts, each of which shall be deemed an original and all of such counterparts together shall constitute one and the same instrument.

ARTICLE 34: Permits, Utilities, and Access.

Unless otherwise agreed in writing, CITY shall 1) apply for and obtain all required permits; 2) make all arrangements for right of entry to provide CONSULTANT access to the Project site for all equipment and personnel at no charge to CONSULTANT; 3) make available to CONSULTANT all relevant information and documents under its control regarding past, present, and proposed conditions of the Project site, including but not limited to plot plans, topographic studies, hydrologic data, and previous soil and geologic data, including borings, field or laboratory tests, and written reports, and shall immediately transmit to CONSULTANT any new information that becomes available or any changes in plans; and, 4) provide CONSULTANT with the location of all underground utilities and structures in the exploration area.

ARTICLE 35: Disputes.

Any dispute arising under this Agreement shall first be resolved by taking the following

steps, where a successive step is taken if the issue is not resolved at the preceding step: 1) by the technical and contractual personnel for each party performing under this Agreement; 2) by executive management of each party; 3) by mediation, or 4) through litigation in a court of competent jurisdiction in Jacksonville, Duval County, Florida. Each party will be responsible for its own costs and attorney fees.

ARTICLE 36: Responsibility.

CONSULTANT is not responsible for the completion or quality of work that is dependent upon or performed by CITY or third parties not under direct control of CONSULTANT, nor is CONSULTANT responsible for the negligent acts or omissions of the CITY or such third persons or for any damages resulting therefrom.

ARTICLE 37: Field Representation.

Unless otherwise expressly agreed in writing, CONSULTANT shall not be responsible for the safety or direction or the means and methods at the CITY's Project site, or for contractors or their employees or agents that are not hired by CONSULTANT, and the presence of CONSULTANT at the Project site will not relieve such contractors of their responsibilities for performing the work in accordance with applicable regulations, or in accordance with Project plans and specifications. If necessary, CITY will advise any contractors that CONSULTANT's services under this Agreement are so limited. CONSULTANT will not assume the role of "prime contractor", "principal contractor", "constructor", "controlling employer", or their equivalents unless the scope of such services is expressly agreed to in writing.

[Remainder of page left blank intentionally. Signature page follows immediately.]

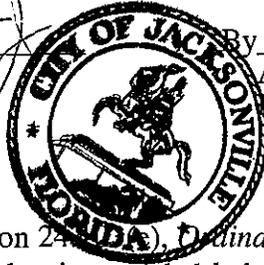
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day

and year first above written.

ATTEST:

CITY OF JACKSONVILLE

By James R. McCain, Jr. Corporation Secretary By Alvin Brown Mayor



In accordance with Section 24... Finance Code, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement, and that provision has been made for the payment of monies provided therein to be paid.

C. Ronald Belfer
Director of Finance
CITY Contract Number: 9982
CB

Form Approved:

James R. McCain, Jr.
Office of General Counsel

Karen Bowling
Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04

WITNESS:

AVIATION SYSTEMS ENGINEERING COMPANY, INC.

By David R. Bennett
Signature

By Vincent A. Bellezza
Signature

David R. Bennett
Type/Print Name

Vincent A. Bellezza
Type/Print Name

Vice President
Title

President
Title