

**AGREEMENT FOR AVIATION ENGINEERING
SERVICES BETWEEN
TRUCKEE TAHOE AIRPORT DISTRICT
AND
BRANDLEY ENGINEERING**

THIS AGREEMENT, made this ___ day of _____, 2023 by and between the Truckee Tahoe Airport District, a California Airport District, hereinafter called the "DISTRICT," and BRANDLEY ENGINEERING, INC, a California corporation, hereinafter called the ENGINEER.

WITNESSETH

THAT WHEREAS, the DISTRICT has the need to retain the ENGINEER for various Aviation Engineering Services at the Truckee Tahoe Airport, Truckee, California;

WHEREAS, the DISTRICT desires to employ an ENGINEER for a term of three (3) years, with option to extend two one (1) year periods from the date first written above in order to provide consulting and engineering services for various projects or TASKS at the Truckee Tahoe Airport as requested by the DISTRICT.

WHEREAS, the ENGINEER is a qualified engineering firm licensed in the State of California and desires to perform said work;

NOW, THEREFORE, DISTRICT and ENGINEER agree as follows:

A. ENGINEERING SERVICES

This contract will serve as a master contract and as work is authorized by the DISTRICT, a TASK will be developed and attached as a part of this contract. Each TASK will describe the work to be completed (Scope of Work), the time frame to be completed, the fee and method of payment. Each TASK will be executed by both the DISTRICT and the ENGINEER. DISTRICT reserves the right to contract with other persons or firms to provide engineering services, including but not limited to Project Management and Specialized Aeronautical Engineering, as it deems appropriate, in its sole and exclusive discretion.

B. ADDITIONAL SERVICES

Any work or services in addition to the work or services described herein shall be performed by ENGINEER according to the rates and charges listed in Exhibit "A" or its latest revision. In the event no rate or charge is listed for a particular type of extra work, ENGINEER shall

be paid for the extra work at a rate to be mutually agreed upon prior to commencement of the extra work. In no event shall ENGINEER be entitled to compensation for extra work unless a written authorization or change order describing the work and payment terms has been executed by DISTRICT prior to the commencement of the work.

C. DISTRICT RESPONSIBILITIES

The DISTRICT shall:

1. Insofar as it is possible to do so, provide access to and make provisions for the ENGINEER to enter upon DISTRICT owned property and make reasonable efforts to assist ENGINEER in obtaining access to property not owned by the DISTRICT as necessary for the ENGINEER to perform his work under this AGREEMENT.
2. Make available to the ENGINEER all technical data in the DISTRICT's possession, including maps, surveys, property descriptions, borings, and other information required by the ENGINEER relating to his work.
3. Issue Notice to Airman (NOTAM's) and announcements regarding the impact of the project activities at the Airport, if appropriate for that specific project.
4. Examine all reports, estimates, drawings, specifications, and other documents presented by the ENGINEER and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of the ENGINEER.
5. Ensure DISTRICT's DBE Plan is current as required by FAA.

D. COMPENSATION FOR SERVICES

The compensation and insurance limits for various services outlined in this AGREEMENT or associated TASKS shall be negotiated for each respective TASK or item. A specific lump sum fee, time, and materials not to exceed fee, or a time and materials fee will be determined for each TASK.

E. TIME AND EXPENSE COMPENSATION

Due to the extended nature of this AGREEMENT, the ENGINEER shall be allowed to request an update to the Schedule of Fees (Exhibit "A") at the beginning of each calendar year.

F. PAYMENT

DISTRICT shall pay ENGINEER for professional services performed in accordance with the Schedule of Fees shown in Exhibit "A" attached hereto and made a part hereof. ENGINEER's statement of charges shall be submitted monthly on or before the fifth day

of each month. Payment will be made within thirty (30) days after receipt of each statement.

G. PERMITS & APPROVALS

ENGINEER shall obtain permits and approval of all governmental authorities having jurisdiction over the services and such approvals and consents from such other individuals or bodies as may be necessary for the completion of the Project.

H. INSURANCE

The ENGINEER shall maintain, at ENGINEER's own expense during the term hereof, insurance with respect to ENGINEER's business, the premises and all activities or services in the performance of this Agreement, of the types and in the minimum amounts as set forth below, provided that if ENGINEER carries insurance with higher limits than described below the higher limits shall apply.

1. Full Worker's Compensation and Employer's Liability Insurance covering all employees of ENGINEER as required by law in the State of California. The ENGINEER acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. A copy of the endorsements evidencing such insurance shall be provided to DISTRICT prior to commencement of work.
2. Comprehensive Public Liability Insurance or Comprehensive Liability Insurance (Bodily Injury and Property Damage) of \$3,000,000.00 combined single limit per occurrence, including, but not limited to, endorsements for the following coverages; personal injury, premises-operations, products and completed operations; blanket contractual, and independent contractor's liability.
3. Comprehensive Automobile Liability Insurance (Bodily Injury and Property Damages) on owned, leased and non-owned vehicles used in connection with ENGINEER's business of \$1,000,000.00 combined single limit per occurrence.
4. Throughout the duration of the Agreement, ENGINEER shall carry professional liability insurance in a standard form, including errors and omission coverage, with a company admitted to do insurance business in the State of California and approved by the DISTRICT. Such insurance shall be on a work basis such that the insurance company is aware of and covers the Agreement. Said insurance shall be written with limits of \$2,000,000.00 per claim, \$4,000,000 aggregate for professional liability.

I. STATUS

The ENGINEER is an independent contractor and shall not be considered an employee of DISTRICT.

J. TIME FOR COMPLETION

For all TASKS associated with this AGREEMENT, the ENGINEER shall begin work immediately upon receipt of the Notice to Proceed from the DISTRICT. The ENGINEER shall provide DISTRICT with a schedule for each associated TASK, and shall exercise due diligence in efforts to complete work in a timely fashion.

K. RECORD RETENTION

Except for materials and records delivered to DISTRICT, ENGINEER shall retain all materials and records prepared or obtained in the performance of this AGREEMENT, including financial records, for a period of at least three (3) years after ENGINEER's receipt of the final payment under this AGREEMENT. Upon request by DISTRICT, ENGINEER shall make such materials and records available to DISTRICT at no additional charge and without restriction or limitation on their use. ENGINEER shall also make such materials and records available to authorized representatives of the State and Federal governments at no additional charge.

L. DOCUMENTATION

ENGINEER shall prepare and deliver to DISTRICT, at no additional charge, the items of work described in this AGREEMENT to document the performance of this AGREEMENT and shall furnish to DISTRICT such information as is necessary to enable DISTRICT to monitor the performance of this AGREEMENT.

M. OWNERSHIP OF DOCUMENTS

All information, data, reports, records and maps as are existing and available for the carrying out of tasks and work orders, shall be furnished to the ENGINEER without charge by the DISTRICT and the DISTRICT shall cooperate with the ENGINEER in every way possible during all phases of the work authorized by the DISTRICT. All data prepared, developed or assembled under this Agreement shall be the property of the DISTRICT. For purposes of this paragraph, data shall include, but not be limited to, plans, documents, estimates, calculations, studies, maps, graphs, charts, computer disks, computer source documentation, models, reports, drawings and designs.

Any report information, data, etc. given to or prepared or assembled by the ENGINEER shall not be made available to any individual or organization by the ENGINEER without the prior written approval of the DISTRICT.

N. TERMINATION

1. This AGREEMENT may be terminated by either party without cause upon (30) days written notice to the other party.
2. This AGREEMENT may be terminated by either party by thirty (30) days written notice in the event of substantial failure to perform in accordance with the terms hereof by one party through no fault of the other party. If terminated because of the fault of others than the ENGINEER, the ENGINEER shall be paid for services performed to the date of termination, including reimbursements then due. If termination is due to the fault of the ENGINEER, the DISTRICT shall pay for all services satisfactorily received, but is not obligated to pay for services relating to the item of fault.
3. In the event of termination of this AGREEMENT and upon the request of the DISTRICT, ENGINEER shall provide to the DISTRICT all DISTRICT data as set forth in paragraph M, regardless of any disputes concerning any sums which may be due ENGINEER, and other items prepared to the date of termination pursuant to this AGREEMENT dispute.

O. ABANDONMENT BY ENGINEER

In the event that ENGINEER ceases performing services under this AGREEMENT or otherwise abandons the project prior to completing all of the services described in this AGREEMENT, ENGINEER shall, without delay, deliver to DISTRICT all materials and records prepared or obtained in the performance of this AGREEMENT, and shall be paid for the reasonable value of the services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which DISTRICT incurs or reasonably expects to incur, including attorney's fees, as a result of such cessation or abandonment.

P. REMEDIES FOR BREACH OF CONTRACT BY ENGINEERS

In the event ENGINEER breaches any provisions of this AGREEMENT and fails to commence the cure of such breach within ten (10) days following written notice from DISTRICT or thereafter fails to diligently prosecute such cure to completion, DISTRICT shall have the right to suspend this AGREEMENT for a reasonable time pending the cure or other resolution of such breach, or to terminate this AGREEMENT as provided herein, or to pursue all other rights and remedies available at law, including but not limited to an action for damages for breach of contract. The damages for which ENGINEER shall be liable shall include the reasonable costs, including attorney's fees, incurred by DISTRICT to complete this contract to the extent such costs exceed the maximum amount payable to ENGINEER hereunder.

In the event that ENGINEER fails to perform any of the services described in this

AGREEMENT or otherwise breaches this AGREEMENT, DISTRICT shall have the right to pursue all remedies provided by law or equity. Any disputes relating to the performance of this AGREEMENT shall not be subject to non-judicial arbitration.

Q. LITIGATION

In the event of any litigation to enforce the provisions of this AGREEMENT, the prevailing party in such litigation shall be entitled to reasonable attorneys' fees as fixed by the court. Any litigation to enforce or interpret the provisions of this AGREEMENT or the parties' rights and liabilities arising out of this AGREEMENT or the performance hereunder shall be maintained only in the courts in the County of Placer, California.

R. COMPLIANCE WITH LAWS

In performing this AGREEMENT, ENGINEER shall (in accordance with ENGINEER's professional standard of care) comply with all applicable laws, statutes, ordinances, rules, and regulations, whether Federal, State, or local origin.

S. ASSIGNMENT

This AGREEMENT shall not be assignable or transferable in whole or in part by ENGINEER, whether voluntarily, by operation of law or otherwise; provided, however, that ENGINEER shall have the right to subcontract that portion of the services for which ENGINEER does not have the facilities to perform so long as ENGINEER notifies and receives prior written approval from DISTRICT of such subcontracting prior to commencing said services. Any other purported assignment, transfer, or subcontracting shall be void.

T. ENDORSEMENT ON PLANS

ENGINEER shall endorse all plans, specifications, estimates, reports and other items described herein prior to delivering them to DISTRICT.

U. PATENTS AND COPYRIGHTS

The issuance of a patent or copyright to ENGINEER or any other person shall not affect DISTRICT's rights to the materials and records prepared or obtained in the performance of this AGREEMENT. DISTRICT reserves a license to use such materials and records without restriction or limitation, and DISTRICT shall not be required to pay any additional fee or royalty for such materials or records. The license reserved by DISTRICT shall continue for a period of fifty (50) years from the date of execution of this AGREEMENT, unless extended by operation of law or otherwise.

V. ENGINEER'S LIABILITY

To the fullest extent permitted by law, ENGINEER shall defend (with counsel of

DISTRICT's choosing), indemnify and hold the DISTRICT, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of ENGINEER, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the ENGINEER's services or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. ENGINEER's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by ENGINEER, the DISTRICT, its officials, officers, employees, agents, or volunteers.

If ENGINEER's obligation to defend, indemnify, and/or hold harmless arises out of ENGINEER's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, ENGINEER's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ENGINEER, and, upon ENGINEER obtaining a final adjudication by a court of competent jurisdiction, ENGINEER's liability for such claim, including the cost to defend, shall not exceed the ENGINEER's proportionate percentage of fault..

W. HEIRS, SUCCESSORS, AND ASSIGNS

Except as provided otherwise in Section R above, this AGREEMENT shall inure to the benefit of any kind the heirs, successors, executors, personal representatives, and assigns of the parties.

X. NOTICES

Any and all notices or other matters required or permitted by this Contract or by law to be served on, given to, or delivered to either Owner or Engineer by the other party to this Contract must be in writing and will be deemed duly served, given, or delivered when (1) personally delivered to the party to whom it is addressed, or (2) deposited in the United States mail, first-class postage prepaid, addressed to District at 10356 Truckee Airport Rd. Truckee, California 96161, or to Engineer at 6125 King Road, Suite 201, Loomis, CA 95650.. Either party may change the party's address for these purposes by giving written notice of the change to the other party in the manner provided in this paragraph.

Y. SOLE AND ONLY AGREEMENT; MODIFICATION

The parties intend this Agreement to be a final and complete description of their Agreement. This Agreement supersedes any and all prior agreement of the parties, whether written or oral. This Agreement may be amended, altered, modified, revoked or terminated only by a writing signed by both parties, and by no other means.

Z. HEADINGS

Headings are inserted and utilized in this Agreement for convenience of reference only and shall not be used to limit, construe or otherwise interpret this Agreement.

AA. FEDERAL OBLIGATION

It is understood by the DISTRICT and the ENGINEER that the FAA is not a party to this AGREEMENT and will not be responsible for costs except as agreed upon by the DISTRICT and the FAA under a Grant AGREEMENT for the Project.

BB. CERTIFICATION OF ENGINEER

The DISTRICT and the ENGINEER hereby certify that the ENGINEER has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

1. Employ or retain, or agree to employ or retain, any firm or persons.
2. Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

CC. GOVERNING LAW

The construction of this AGREEMENT, and the rights and liabilities of the parties, shall be governed by the laws of the State of California.

DD. FEDERAL REQUIREMENTS

During the performance of this AGREEMENT, the ENGINEER, for itself, its assignees, and successors in interest, agrees to all the federal contract provisions provided in “**Exhibit B**” and as follows:

1. Compliance with Regulations. The ENGINEER shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter called “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “Regulations”) which are herein incorporated by reference and made a part of this AGREEMENT.
2. Nondiscrimination. The ENGINEER, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the ENGINEER for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the ENGINEER or the ENGINEER’s obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports. The ENGINEER shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the DISTRICT, the FAA, or the Comptroller General of the United States

to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify to the DISTRICT or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information. The ENGINEER shall maintain all required records for three (3) years after the sponsor makes final payment and all other pending matters are closed.

5. Sanctions for Noncompliance. In the event of the ENGINEER's noncompliance with the nondiscrimination provisions of this AGREEMENT, the DISTRICT shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the ENGINEER under this AGREEMENT until the ENGINEER complies, and/or
- b. Cancellation, termination or suspension of the AGREEMENT, in whole or in part.

6. Incorporation of Provisions. The ENGINEER shall include the provisions of Paragraphs 1 through 5 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The ENGINEER shall take such action with respect to any subcontract or procurement as the DISTRICT or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the ENGINEER becomes involved in, or is threatened with, litigations with a subcontractor or supplier as a result of such direction, the ENGINEER may request the DISTRICT to enter into such litigation to protect the interests of the DISTRICT and, in addition, the ENGINEER may request the United States to enter into such litigation to protect the interests of the United States.

7. DBE Obligation. The ENGINEER agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this AGREEMENT. In this regard, the ENGINEER shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The ENGINEER shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

IN WITNESS WHEREOF, the Truckee Tahoe Airport District (DISTRICT), by and through its Board of Directors, and BRANDLEY ENGINEERING, INC. (ENGINEER), by its authorized officer, have made and executed this AGREEMENT as of the day and year first written above.

Truckee Tahoe Airport District:

By: _____
Robb Etnyre, General Manager

By: _____
Kathryn Rolff, President Board of Directors

Brandley Engineering:

By: _____

R. Damon Brandley, P.E.

President, Brandley Engineering