

**CONTRACT**

**RECONSTRUCT RUNWAY 2-20**  
**A.I.P. 3-06-0110-033-2020**  
**at**  
**Inyokern Airport**  
**Indian Wells Valley Airport District**

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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between the Indian Wells Valley Airport District, sometimes hereinafter referred to as "Owner" or "District" and **Granite Construction Company**, hereinafter referred to as "Contractor".

WHEREAS, Owner has accepted the Bid Proposal of Contractor for:

**RECONSTRUCT RUNWAY 2-20**  
**at Inyokern Airport**

NOW, THEREFORE IT IS AGREED AS FOLLOWS:

1. For and in consideration of the payment and agreement hereinafter mentioned, the Contractor agrees to construct and complete the Project within (\*) working days after receipt of Notice to Proceed, in a good, workmanlike and substantial manner and to the satisfaction of the Owner and in accordance with the plans, drawings and specifications for the Project and the terms, conditions, agreements, and provisions of this agreement and the Contract Documents, and to do all the work and furnish all labor, materials, supplies, equipment, utility and transportation services, and other items necessary to construct and complete the Project as aforesaid.

Contractor agrees to receive and accept the prices set forth in the following schedule as full compensation for doing and completing all the work and furnishing all labor, materials and other items contemplated and embraced in this agreement, as well as for all loss or damage, arising out of the nature of the work or from the action of the elements or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the Owner, and for all expenses incurred by or in consequence of the suspension or discontinuance of work, to wit: (Referenced schedule is the Contractor's Bid Schedules included in the Contractor's Proposal, with summary information following).

(\*) Two Hundred Sixty (260)

**Contract Amount: \$9,316,350.00**

2. Contract Documents. This agreement and the following provisions or documents, (herein collectively referred to as the "Contract Documents"), each of which is annexed hereto or is on file in the office of the General Manager of the Indian Wells Valley Airport District, are hereby incorporated herein and made a part hereof as if set forth at length herein.

- (a) This Agreement
- (b) Notice Inviting Sealed Bids, Information Included in Notice or Instructions to Bidders, and Special Instructions to Bidders.
- (c) Contractor's Bid Proposal dated July 7, 2020.
- (d) Within the Bid Proposal:
  - Subcontractor Schedule
  - Bidders Information
  - Contractors Experience and Financial Qualifications
  - Public Contract Code Statements
  - Bid Bond
  - Required Federal Contract Provisions for Airport Improvement Program and For Obligated Sponsors
- (e) Plans, drawings and specifications for the Project (Reconstruct Runway 2-20, prepared by Tartaglia Engineering).
- (f) Payment Bond
- (g) Performance Bond
- (h) Addenda 1 of 1, copies of which are annexed hereto.
- (i) Insurance Requirements.
- (j) Contract
- (k) General Provisions
- (l) Special Provisions
  - Technical Specifications
  - FAA Technical Specifications
- (m) Construction Safety Phasing Plan
- (n) FAA Contract Provisions
- (o) FAA Advisory Circular: Operational Safety on Airports During Construction

The agreement and the foregoing described provisions and documents are together hereinafter referred to as the "Contract Documents" or "Contract", which are intended to be complementary so that any work or obligation called for in one, and not mentioned in all said provisions and documents.

3. Time for Completion; Liquidated Damages. Contractor shall commence work hereunder within ten (10) days after receiving a written notice to proceed from District and shall diligently prosecute the work so as to have the Project completed within **260 working days** after receipt of said Notice to Proceed. A reasonable allowance for the time during which the Contractor is delayed in said work by the acts of neglect of District or its employees or those under District by contract or otherwise, or by acts of God, which the Contractor could not have reasonably foreseen and provided against, or by storm and inclement weather which delays the work, or by any strikes, boycotts, or like obstructive action by employee or labor organizations or any general strike, or by organization of employees, shall be added to the aforesaid time for completion. In view of the difficulty to ascertain the amount of damages required to properly compensate District for failure of Contractor to complete the Project within the time fixed by this agreement, Contractor shall pay to District the sum of **\$2,000.00** per calendar day as liquidated damages for each calendar day that Project shall remain incomplete past the date herein established for completion.

4. Payment. District shall pay Contractor for said work as provided in the Contract Documents.

5. Use prior to Completion. Use of the Project by District prior to the date of completion thereof shall not be deemed to constitute acceptance of said Project.

6. Warranty of Work. Contractor shall promptly repair, replace, restore, or rebuild, as District may determine, any finished work in which defects of materials or workmanship may appear or to which damage may occur because of such defects during a one-year period subsequent to the date of final acceptance.

7. Working Hours: Penalty. Contractor shall forfeit as penalty to the District Twenty-five Dollars (\$25.00) for each workman employed in the execution of the contract by him or by any subcontractor for each calendar day during which such workman is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Article 3, Chapter 1, Part 7, Division 2 of the Labor Code of the State of California.

8. Substitution of Eligible Securities. Substitution of Eligible Securities, hereinafter defined, for any moneys of the Contractor withheld by District to ensure performance under the contract may be permitted pursuant to and in accordance with Section 22300 of the California Public Contract Code. The term "Eligible Securities", as used herein, mean and include the Securities listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit. At the request and expense of the contractor, Eligible Securities equivalent to the amount withheld shall be deposited with the District, or with a state or federally chartered bank as the escrow agent, who shall pay such moneys to the contractor upon satisfactory completion of the contract. The contractor shall be the beneficial owner of any Eligible Securities substituted for moneys withheld and shall receive any interest thereon.

9. Worker's Compensation. Pursuant to the requirements of Section 1860 of the Labor Code of the State of California. Contractor will be required to secure the payment of compensation to his employees in accordance with the provisions of Section 3700 of the Labor Code of the State of California. By execution of this agreement, Contractor does hereby certify as follows: "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract".

10. Wage Rates. Pursuant to the provisions of Sections 1770-1777 of the Labor Code of the State of California, Director of the Department of Industrial Relations has ascertained the general prevailing rate of

wages and employer payment for health and welfare, vacations, pension and similar purposes in the region in which the work is to be done. Contractor shall pay not less than the prevailing wage rates to workers employed on the project. Contractor shall comply with Labor Code Section 1770 et seq.

Information relative to the employment of apprentices shall be obtained from the Director of the Department of Industrial Relations, who is the Administrative Officer of the California Apprenticeship Council. Contractor shall comply with the provisions of Labor Code Sections 1777.5 and 1777.6 in the employment of apprentices. The Contractor shall forfeit as penalty to the District, Fifty dollars (\$50.00) for laborers, workmen, or mechanics employed for each calendar day or portion thereof, if such laborer, workmen or mechanic is paid less than the general prevailing rate of wages herein referred to and stipulated for any work done under the proposed contract, by him, or by any subcontractor under him, in violation of the provisions of the Labor Code, and in particular, Sections 1770 to 1781, inclusive. Copies of all collective bargaining agreements relating to the work as set forth in the aforementioned Labor Code are on file and available for inspection in the Office of the Department of Industrial Relations, Division of Labor Statistics and Research. Contractor is responsible for ascertaining and complying with all changes in rates subsequent to submission of Contractor's bid proposal to District. This project is funded with federal funds and is subject to federal minimum wages and federal equal employment requirements. Where conflicts arise between Federal and State requirements then highest minimum wage and the most restrictive requirements shall govern.

Contractor shall also comply with the provisions required by regulations of the Secretary of Labor, and made a part hereof and shall not pay to workmen employed on the Project less than the rates of wages established by the wage determination decisions of the Secretary of Labor annexed hereto and made a part hereof, as the same may be superseded, modified or supplemented.

In the event there is a variance between the minimum wage rates established by the U.S. Secretary of Labor and those ascertained by the Director of the California Department of Industrial Relations, the higher wage rate will be paid.

11. General. Time is of the essence of this agreement. This agreement and the Contract Documents contain all of the agreements and conditions made between the parties, and may not be modified orally or in any other manner than by an agreement in writing signed by the parties hereto. If any provision of this agreement shall be held by a court of competent jurisdiction to be invalid, the remaining provisions shall continue in full force and effect and shall in no way be invalidated thereby. Captions herein are for convenience of reference only and shall not govern the construction of this agreement. Contractor shall comply with all applicable federal, state and local laws, regulations, ordinances and order, including without limitation the rules and regulations of the District governing the use and occupancy of the Inyokern Airport.

12. Attorneys Fees. In the event any action or proceeding including arbitration, if agreed, is brought by either party against the other party for the enforcement or declaration of any right (s) or remedy (ies) in or under this Agreement or for the breach of any covenant or condition of this Agreement, the prevailing party shall be entitled to recover, and the other party agrees to pay, all fee and costs to be fixed by the court or arbitrator therein, including, but not limited to attorneys fees.

13. Existing Utility Facilities (Government Code Section 4215). As between Contractor and District only, District assumes the responsibility for the removal, relocation or protection of existing main or trunkline utility facilities located on the site of the work, if such utilities are not identified in the plans or specifications made a part of the invitation for bids.

Contractor shall not be assessed liquidated damages for delay in completion of the Work when such delay is caused by failure of District or a utility owner to provide for removal or relocation of such existing utility facilities; provided, however, that if Contractor, while performing the Contract, discovers utility facilities not identified by District in the contract plans or specification, he shall immediately notify District in writing. If Contractor shall fail to so notify the Contract Documents for any delay in completion of the Work caused by such utility facilities on the basis of one day for each day Contractor shall permit to elapse between discovery of such utility facilities and such written notification to District thereof.

14. Indemnification. Contractor shall defend (with counsel acceptable to District), investigate, indemnify, and hold District, its elective and appointive boards, officers, directors, agents and employees harmless from and against all liability, loss, damage, demands, liens, claims for personal or bodily injury, or death, claims for property damage including loss and loss of use; environmental damages and costs of compliance with environmental requirements, (including, but not limited to investigation, remediation and payment of fines, penalties and losses including diminution of property value); which may arise from Contractor's or any subcontractor's operations under this agreement, whether such operations be by Contractor or by any subcontractor or subcontractors or by any one or more persons directly or indirectly employed by or acting as agent for Contractor or any subcontractor or subcontractors. This indemnification excludes only liability or loss occasioned, caused, or suffered by the sole active negligence or willful misconduct of District. Provided as follows:

- (a) That District does not and shall not waive any rights against Contractor which it may have by reason of the aforesaid hold harmless agreement because of the acceptance by District or the deposit with District by Contractor of any of the insurance policies hereinafter described in paragraph 15 thereof.
- (b) That the aforesaid hold harmless agreement by Contractor shall apply to all damages and claims for damages of every kind suffered or alleged to have been suffered by reason of any of the aforesaid operations of Contractor or any subcontractor, regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

15. Public Liability and Property Damage Insurance; Protection and Restoration of Property. The Contractor shall at his expense take out and maintain, during the life of the contract, such public liability and property damage insurance as shall protect him and any subcontractor performing work covered by this contract from claims for property damage which may arise because of the nature of the work or from operations under this contract, whether such operations be by himself or by any subcontractor or any directly or indirectly employed by either of them, even though such damages be not caused by the negligence of the Contractor or any subcontractor, or anyone employed by either of them. All insurance shall be primary, not excess, insurance. The amounts of such insurance shall be as follows:

- (a) Contractor's general liability insurance, including Owner's and Contractor's protective liability and contractual coverage, providing bodily injury or death liability limits of not less than \$1,000,000 per person and \$2,000,000 for each occurrence, and property damage liability with single limit liability of not less than \$500,000 for each accident or occurrence.
- (b) Automobile liability insurance covering all vehicles used in the performance of the contract providing bodily injury or death liability limits of not less than \$500,000 per person and \$1,000,000 for each occurrence, and property damage liability with a single limit liability of not less than \$500,000 for each accident or occurrence.

Before or concurrently with the execution of the contract, the Contractor shall file with the District a certificate or certificates of insurance, issued by the insurance carrier, covering the specified insurance and a complete copy of each insurance policy. The District shall be named as an additional insured in each policy required herein without offset to any insurance policies of the District. Each such certificate and policy shall bear an endorsement precluding the cancellation, or reduction in coverage, of any policy before the expiration of thirty days after the District shall have received notification by registered mail from the insurance carrier.

Nothing herein contained shall be construed as limiting the liability of the Contractor.

16. Affirmative Action

The Contractor assures that it will undertake an affirmative action program as required by the 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Contractor assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Contractor assures that it will require that its covered suborganizations provide assurances to the Contractor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Contract Security. Concurrently with the execution hereof, Contractor shall furnish a bond with a responsible corporate surety or corporate sureties conditioned upon the faithful performance of said Contractor of all covenants and stipulations of the contract. Said bond, hereinafter referred to as the "Performance Bond", Shall be in the form approved by District and in the amount not less than 100 percent (100%) of the total amount payable under the contract. Contractor shall also furnish a Payment Bond, approved by District, in accordance with the provisions of Civil Code Sections 3225-3228, inclusive, and Sections 3247-3252, inclusive. Said Payment Bond shall be in a sum not less than 100 percent (100%) of the total amount payable by the terms of this contract, but not less than the sum prescribed in Section 3248 of the Civil Code, in any case.

18. Payroll Records. Contractor and each subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeymen, apprentice, worker, or other employee employed by the Contractor in connection with the public work. The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor in the manner provided in Labor Code Section 1776. In the event of noncompliance with the requirements of this Section, Contractor shall have ten (10) calendar days to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this section. Should noncompliance still be evident after such ten-day period, Contractor shall, as a penalty to District, forfeit the sum of fifty dollars (\$50.00) for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The responsibility for compliance with this section is with Contractor. District may withhold other amounts due at the request of the Division of Labor Standards or other agency having jurisdiction.

19. Labor Discrimination. No Discrimination shall be made in the employment of persons on the work by Contractor or by any subcontractor because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex except as provided by Section 12940 of the Government Code.

20. Changed Conditions. Contractor shall notify the Engineer in writing of the following Project site conditions, hereinafter called "changed conditions", promptly upon their discovery and before they are disturbed:

- (1) Subsurface or latent physical conditions differing materially from those represented in the plans and specifications;
- (2) Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character being performed; and
- (3) Material differing from that represented in the contract which Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

The Engineer will promptly investigate conditions which appear to be changed conditions. If he determines that the conditions are changed conditions and that they will materially increase or decrease the costs of any portion of the project, a change order will be issued adjusting the compensation portion of the project in accordance with contract documents. If the Engineer determines that conditions are changed conditions and that they will materially affect the performance time, Contractor, upon submitting a written request, will be granted an extension of time subject to the provisions of paragraph 3.

If the Engineer determines that the conditions of which he has been notified by Contractor do not justify an adjustment in compensation, Contractor will be so notified in writing. This notice will also advise Contractor of its obligation to notify the Engineer, in writing, if Contractor disagrees. Should Contractor disagree with such determination, it may submit a written notice of potential claim to the District Manager or Engineer and before commencing the disputed work. In the event of such a disagreement, Contractor shall not be excused on account of that disagreement from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. However, Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

21. Inspection of Site. Except as otherwise specifically provided, it shall be the responsibility of Contractor to examine the site of the work and be familiar with its condition, facilities or obstructions, and other physical factors and limitations affecting the performance of this agreement. Indication in the contract documents of the existence of any such items shall in no way be construed as a warranty on the part of the District as to their precise location or that these are the only such items located or affecting the work or the site thereof. District in preparing the contract documents has made reasonable efforts to locate and identify any and all such items, but it is understood and agreed that District accepts no responsibility or liability for their location, character or existence. Should any facility be damaged, Contractor shall repair or replace it at Contractor's expense immediately.

22. Breach of Contract - Sanctions. Any violation or breach of the terms of this contract on the part of the Contractor/Subcontractor may result in the suspension or termination of this contract or other such action which may be necessary to enforce the rights of the parties of this agreement.

23. Assignment. This contract is not assignable by Contractor.

24. Assignment by Contractor to Awarding Body of Rights Under Federal Law Arising From Purchases Under Public Works Contract. In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 150 or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties. (Public Contracts Code § 7103.5)

25. Contracts Involving Digging Trenches or Other Excavations.

In any public works contract of a local public entity which involves digging trenches or other excavations that extend deeper than four feet below the surface:

- a. The contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:

Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law.

Subsurface or latent physical conditions at the site differing from those indicated.

Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

- b. The public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.
- c. In the event that a dispute arises between the public entity and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date provided for the contract, but shall proceed with all work to be performed under the contract. The contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties. (Public Contracts Code § 7104)

26. Required Federal Contract Provisions.

- a. **DBE Program Requirements.** The contractor or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or such other remedy as the recipient deems appropriate. This clause must be included in each subcontract the prime contractor signs



with a subcontractor.

- a. **Prompt Payment.** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of his contract no later than 90 days from the receipt of each payment the prime contractor receives from the District. The prime contractor agrees further to return retainage payments to each subcontractor within 90 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the District. This clause applies to both DBE and non-DBE subcontractors. This clause must be included in each subcontract the prime contractor signs with a subcontractor.

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

GRANITE CONSTRUCTION COMPANY  
(Contractor)

INDIAN WELLS VALLEY AIRPORT DISTRICT  
(Owner/District)

By: \_\_\_\_\_  
(Title)

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
(Title)

By: \_\_\_\_\_  
Secretary

CONTRACTOR

OWNER / DISTRICT

Approved as to Content for District

\_\_\_\_\_  
General Manager

Contractor Contact Information:

Granite Construction Company  
License Number: 89  
3005 James Road  
Bakersfield, CA 93308  
Phone: (661)399-3361