

**CITY OF PALM SPRINGS, CA**

**PROCUREMENT AND CONTRACTING DEPARTMENT**



**REQUEST FOR PROPOSALS 08-24  
PARKING ACCESS AND REVENUE CONTROL SYSTEMS**

**ISSUED: MAY 13, 2024**

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# SECTION 1 – NOTICE OF REQUEST FOR PROPOSALS

## 1.1 Request for Proposals

The City of Palm Springs is requesting proposals from qualified firms to provide the City with a parking access and revenue control system (PARCS) and prebooking/reservation system. The scope of work will consist of installation of a new PARCS utilizing a license plate recognition system at the entrances and exits to the Palm Springs International Airports parking facilities and to provide a prebooking/reservation system.

Proposers may propose on the PARCS or on the Pre-Booking/Reservation system, or both. Palm Springs International Airport reserves the right to select separate Proposers to provide the respective services with the provision that the proposer selected shall work with each other to provide a fully functional integrated solution.

## 1.2 Term

The term of this contract will be for ten years.

## 1.3 Schedule

The following is the schedule for this procurement:

Activity	Due/Time
Request for Proposals Issued	May 13, 2024
Pre-Proposal Conference	May 22, 2024 @ 10:00 am PST
Requests for Clarifications from Proposers are due	May 29, 2024 by 5:00 pm PST
Responses to Requests for Clarification will be posted via Addendum	June 5, 2024
<b>Proposals are Due</b>	<b>June 12, 2024 @ 2:00 pm PST</b>
Interviews (if Required)	June 26, 2024
Recommendation/Selection (tentative)	June 27, 2024
Projected Date for Award of Contract/ PO	July 25, 2024

## 1.4 Procurement Officer and Delivery Address:

**Kim Baker**

**City of Palm Springs – Procurement and Contracting Department**

**City Hall**

3200 E. Tahquitz Canyon Way

Palm Springs, CA 92262

Phone: 760.322.8368

Email: [kim.baker@palmsspringsca.gov](mailto:kim.baker@palmsspringsca.gov)

## SECTION 2 – INSTRUCTIONS TO PROPOSERS

### 2.1 Obtaining RFP Documents and Addenda:

RFP documents including Addenda can be found on PlanetBids at:

<https://pbsystem.planetbids.com/portal/47688/portal-home>

Proposers will then need to log in and locate this RFP for all related documents. It is the Proposers responsibility to check the PlanetBids site regularly to stay current on the documents that are available as this is the primary communication site for this RFP.

### 2.2 Pre-Proposal Conference:

A Pre-Proposal Conference will be held as follows:

Date: May 22, 2024 at 10:00 am PST

### 2.3 Time:

Location: **Virtually.** - Interested participants who wish to participate in the preproposal conference by either requesting a link to attend via email to:

[kim.baker@palmspringsca.gov](mailto:kim.baker@palmspringsca.gov) or by following the directions below:

**Microsoft Teams** [Need help?](#)

[Join the meeting now](#)

Meeting ID: 231 323 024 340

Passcode: UZMUWF

**Dial-in by phone**

[+1 872-239-6004,383836586#](tel:+18722396004383836586) United States, Chicago

[Find a local number](#)

Phone conference ID: 383 836 586#

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)

All proposers are highly encouraged to attend this conference to learn more about the requirements of this solicitation.

### 2.4 Proposer's Minimum Requirements:

If the Proposer for either PARCS or Pre-Booking/Reservation is a partnership, joint venture, or newly formed entity (e.g. limited liability company or corporation), the minimum requirements set forth in this Section (and throughout the RFP) must be satisfied by the entity or individual(s) that owns and controls a majority equity interest (at least 51%) of the partnership, joint venture or newly formed entity.

1. **Experience PARCS package:** The Proposer must meet the following qualifications:
  - a. minimum of ten years of experience continuously and actively operating as a PARCS provider at commercial airports.
  - b. minimum of 2,500 multi-level garage and surface parking spaces
  - c. generates \$10 million or more in gross parking revenues annually, and;
  - d. minimum of five installations; of which one with License Plate Recognition that ranks in the top 75 U.S. airports by ACI in 2022, and of which three are U.S. airports, and of the five installations a minimum of three are LPR, the proposed

system, proposed hardware and software, is currently being used at one of the five installations.

- e. **Proposers shall outline this experience in Section A of the proposal.**
2. **Experience Prebooking/Reservation package:** The Proposer must meet the following qualifications:
  - a. minimum of two or more consecutive years of specialized experience at major commercial airports in the Airports Council International ACI 2022 top 75 U.S. airports, to install a Pre-Booking/Reservation system that is integrated into the PARCS described above;
  - b. A minimum of three installations at an airport, with one in the top 75 U.S. airports by ACI 2022; Proposer shall submit documentation that demonstrates it is duly authorized to conduct business within the State of California. This experience must be validated in a letter by the project owner.
  - c. **Proposers shall outline this experience in Section A of the proposal.**
3. **Business License:** The selected firm will be required to be licensed in accordance with the City of Palm Springs Business License Ordinance, Municipal Code Chapter 3.40 through 3.96, entitled "Business Tax". Proposers may obtain the license after award but must do so promptly as the license will be routed with the contract for final signature.

## **2.5 Submission of Proposals:**

- A. Requests for Proposals will be electronically received via the online Planet Bids electronic system until **the time specified in the schedule**. The receiving time date stamp in Planet Bids will be the governing time for acceptability of Proposals. Paper proposals, or proposals sent by any other means will not be accepted. Late proposals will not be accepted by the Planet Bids system so please allow plenty of time to submit your proposal. Failure to register as a Proposer to this RFP process per the instructions in this Request for Proposals (under "Obtaining RFP Documents") may result in not receiving Addenda or other important information pertaining to this process. Failure to acknowledge Addenda may render a proposal as being non-responsive or negatively impact the evaluation of a proposal. **Proposal files shall be clearly labeled per the instructions provided and submitted electronically.**

## SECTION 3 – CONDITIONS GOVERNING THE PROCUREMENT

### 3.1 Request for Clarifications/Questions:

- A. Questions are to be submitted through PlanetBids vendor portal at the following link: <https://pbsystem.planetbids.com/portal/47688/portal-home> and then selecting the RFP.
- B. Interpretations or clarifications considered necessary in response to such questions will be resolved by the issuance of formal Addenda to the RFP. **The deadline for all questions is as outlined in the schedule.** Questions received after this date and time may not be answered. Only questions that have been resolved by formal written Addenda via the Division of Procurement and Contracting will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

### 3.2 Proposers Ethical Behavior:

Proposers, their representatives, agents, or anyone else acting on their behalf are specifically directed not to contact any city employee, commission member, committee member, council member, or other agency employee or associate for any purpose related to this RFP other than as directed below. Contact with anyone other than as directed below will be cause for rejection of a proposal.

### 3.3 Proposals to Remain Open:

The Proposer shall guarantee that all contents of their proposal shall be valid for a period of 120 calendar days from the due date of proposals.

### 3.4 Right to Accept or Reject Proposals:

The City of Palm Springs reserves the right to waive any informality or technical defect in a proposal and to accept or reject, in whole or in part, any or all proposals and to cancel all or part of this RFP and seek new proposals, as best serves the interests of the City. The City furthermore reserves the right to contract separately with others certain tasks if deemed in the best interest of the City.

### 3.5 Responsibility of Proposer:

All firms responding to this RFP shall be responsible. If it is found that a firm is irresponsible (e.g., has not paid taxes, is not a legal entity, submitted an RFP without an authorized signature, falsified any information in the proposal package, etc.), the proposal shall be rejected.

### 3.6 Insurance:

Insurance provisions are contained in the Standard Contract Services sample agreement included in the RFP. The successful Proposer will be required to comply with these provisions. It is recommended that Proposers have their insurance provider review the insurance provisions BEFORE they submit their proposal.

### 3.7 Public Record:

- A. All documents submitted in response to this solicitation will become the property of the City of Palm Springs and are subject to the California Code Section 7921 et seq., commonly known as the Public Records Act. Information contained in the documents, or any other materials associated with the solicitation, pursuant to CA Government Code 7922 during the negotiation process, may be made public after the City's negotiations are completed, and staff has agendized the

recommendation to the City Council for the award of a contract to a specific firm, but before final action is taken by the City Council to award the contract.

- B. Although the California Public Records Act (“CPRA”) recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information submitted in a proposal is a trade secret. If a request is made for information marked “Confidential,” “Trade Secret,” “Proprietary,” or any other similar designation, the City will provide the party submitting such information with reasonable notice to allow the party to seek protection from disclosure by a court of competent jurisdiction.
- C. If a submitting party contends that a portion of the proposal is confidential even under the CPRA, the party: 1) must clearly label each document and/or page deemed a confidential document 2) the legal rationale supporting such contention including specific references to applicable provisions of the Public Records laws of the State 3) must actively defend against any request for disclosure of information which the party has determined should not be released, and 4) must indemnify and hold harmless the City from any loss, claim or suit, including attorneys’ fees, brought by a person challenging the City’s refusal to release the documents. The City will not, under any circumstances, incur any expenses, or be responsible for any damages or losses incurred by a party submitting a proposal or any other person or entity, because of the release of such information. The City will not return the original or any copies of the proposal or other information or documents submitted to the City as part of this RFP process. The City may not recognize proposals where all the information, via a blanket statement is submitted as proprietary information or a trade secret. Such proposals may be found non-responsive.

### **3.8 Cost Related to Proposal Preparation:**

The City will NOT be responsible for any costs incurred by any firm responding to this RFP in the preparation of their proposal or participation in any presentation if requested, or any other aspects of the entire RFP process.

### **3.9 Compliance with Law:**

Proposer warrants that all Services rendered shall be performed in accordance with all applicable federal, state, and local laws, statutes, ordinances lawful orders, rules, and regulations.

### **3.10 Licenses, Permits, Fees and Assessments:**

Proposer represents and warrants to City that it will obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services requested in this RFP. Proposer represents and warrants to City that Proposer shall, at its sole cost and expense, keep in effect at all times during the term of the Agreement if so awarded, any license, permit, qualification, or approval that is legally required for Proposer to perform the Work and Services under the Agreement if so awarded. Proposer shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties, and interest, which may be imposed by law and arise from or are necessary for the Proposer’s performance of the Work and Services required under the Agreement if so awarded. Proposer shall indemnify, defend, and hold harmless City against any such fees, assessments, taxes penalties, or interest levied, assessed, or imposed against City to the fullest extent permitted by law.

### **3.11 Investigations:**

The City reserves the right to make such investigations as it deems necessary to determine the ability of the firms responding to this RFP to perform the Work and the firm shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any proposal if the evidence submitted by or investigation of such firm fails to satisfy the City that such firm is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.

### **3.12 Non-Collusion:**

The undersigned, by submission of this Proposal Form, hereby declares that this Proposal is made without collusion with any other business making any other Proposal, or which otherwise would make a Proposal. Proposer must execute an Affidavit of Non-Collusion provided as Attachment "B" in the RFP and include it with their proposal.

### **3.13 Signed Proposal and Exceptions:**

Submission of a signed proposal will be interpreted to mean that the firm responding to this RFP has hereby agreed to all the terms and conditions set forth in all of the sheets which make up this Request for Proposals, and any attached sample agreement. Exceptions to any of the language in either the RFP documents or attached sample agreement, including the insurance requirements, must be requested under the request for clarifications/questions process by the deadline for questions. Any requested changes to the contract will be considered at that time and if changes are allowed, they will be sent out through an Addendum to all proposers. Exceptions to the City's RFP document or standard boilerplate language, insurance requirements, terms, or conditions, etc. may only be considered during the early stage of the solicitation process; and shall not be included in the submitted proposals. The City makes no guarantee that any exceptions will be approved but will consider any requests put forward in the request for clarification/question process.

### **3.14 Award of Contract:**

It is the City's intent to award a contract to the firm that can provide all of the scope of work, equipment and services identified in the RFP document. However, the City reserves the right to award a contract, or to make no award, whichever is in the best interest of the City. It is anticipated that award of the contract will occur at the next regularly scheduled City Council meeting after the evaluation committee has made its final selection of the firm to be recommended for award and a contract has been negotiated and agendized for consideration. The decision of the City Council will be final.

### **3.15 Form of Agreement:**

The selected firm will be required to enter into a contractual agreement, inclusive of insurance requirements, with the City of Palm Springs in accordance with the standard Contract Services Agreement (**see Section 8**). Please note that the Exhibits are intentionally not complete in the attached sample standard document. These exhibits will be negotiated with the selected firm and will appear in the final Contract Services Agreement executed between the parties.

Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award. If the highest ranked Proposer refuses or fails to execute the Agreement, or negotiations are not successful, or the agreement is terminated,



the City may, at its sole discretion, enter negotiations with and award the Contract to the second highest ranked Proposer, and so on.

We **specifically draw your attention** to the language in the sections of the sample contractual agreement attached entitled “**Conflict of Interest**” and “**Covenants Against Discrimination**” and recommend all firms carefully consider these contractual requirements prior to submitting a proposal in response to this RFP. Firms that submit a proposal in response to this RFP shall certify the following:

- A. **Conflict of Interest.** Proposer acknowledges that no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement, nor shall Proposer enter into any agreement of any kind with any such officer or employee during the term of this Agreement and for one year thereafter. Proposer warrants that Proposer has not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.
  
- B. **Covenant Against Discrimination.** In connection with its performance under this Agreement, Proposer shall not discriminate against any employee or applicant for employment because of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin (*i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a “prohibited basis”). Proposer shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City’s lawful capacity to enter this Agreement, and in executing this Agreement, Proposer certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Proposer activity, including but not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship; and further, that Proposer is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

## SECTION 4 – SCOPE OF WORK

### 4.1 Background:

- A. The Palm Springs International Airport (PSP) is a small hub airport operated under the City of Palm Springs (City) that provides an unrivaled experience for all who travel to the Coachella Valley. PSP ranks 88th on the busiest airport in the United States as measured by ACI 2022 North America passenger traffic and is the 17th busiest small hub airport. In calendar year 2023, Approximately 1.6 million passengers enplaned at PSP, with 31% of them originating their journeys from the Coachella Valley.
- B. Parking is an important element in the passenger experience and the second largest source of non-airline revenue for PSP, with gross sales exceeding \$7 million annually. PSP currently offers passengers one rate across four primary terminal surface lots and one overflow lot with an aggregate space count of roughly 1,600. PSP is currently completing a master plan updated which includes the addition of a consolidated rental car facility that may be flexed for public parking. PSP currently uses a newly procured Transcore AVI system and ideally Parking Access and Revenue Control (PARCS) should integrate with that system. (See Scope of Work Attachment 4-1 for a diagram of the parking lots at PSP.)
- C. The objectives are as follows:
  - 1. Design and install a PARCS utilizing LPR technology, and a separate but integrated Pre-Booking/Reservation System. The installation will require modifications to the entry and exit lanes and, in some cases, the construction of new entry and exit lanes.
  - 2. Enhance the customer's parking experience by offering a choice of products with high quality service at a range of cost and convenience.
  - 3. Improve operational efficiencies.
  - 4. Create flexibility to adopt new technologies such as license plate recognition technology (LPR), Bluetooth Low Emission technology, HID, AVI, barcode readers, mobile pay or other technologies and associated hardware.
  - 5. Grow net parking revenues.
  - 6. Enable real-time tracking of parking lot capacity and available spaces with the ability to transmit, integrate and display data on airport website.
  - 7. Create an expandable system to accommodate future parking facility development.

### 4.2 Scope - PARCS requirements:

- A. **PARCS:** The Contractor will install a new Parking Access and Revenue Control System (PARCS) at the airport using license plate recognition technology (LPR) at the entrances and exits to the parking facilities. The PARCS shall integrate with the selected Pre-Booking Reservation system.
- B. **PARCS Project Phasing:**
  - 1. The Contractor shall prepare a phased approach to transition to the new system quickly and then modify the entry and exit lanes to incorporate LPR and other new proposed and agreed to functions. The Contractor shall provide a detailed project schedule. On a weekly basis the Contractor shall provide a three week look ahead

of upcoming activities. The PARCS Project will consist of three distinct phases as follows:

- a. The phasing plan begins with a review of the phasing plan to coordinate changes and modifications with the Airport's Project Manager and Stakeholders.
- b. Transition of entry/exit lanes while maintaining operations within the parking facilities and exchanging existing equipment to the new equipment within a short period of time. Contractor shall be aware that in many cases overnight work is required.
- c. The Contractor shall begin extending the islands, that require extension, to install LPR cameras, and integration of the Pre-Booking/Reservation system.

#### **C. PARCS Project Management and Coordination**

1. Meetings: Contractor will attend weekly construction meetings to discuss progress and identify any potential problems encountered with proposed corrective actions.
2. Contractors shall prepare Requests for Information (RFIs) as necessary, to clarify any outstanding question or issue.
3. Prepare, maintain, and submit on a monthly basis an overall detailed project schedule.
4. Project Schedule: Contractor will provide weekly updates to the installation schedule with a three-week lookahead for activities that are scheduled to occur within the next three weeks.
5. Summary of the work prepared under the 3-week look ahead.
6. Prepare and submit any requested change orders if needed, including:
  - a. Prepare scope of work
  - b. Prepare estimated cost to complete
  - c. Include schedule for work to be performed
7. Prepare and submit invoices based upon mutually agreed milestone payment schedule.
8. Correct any deficiencies on a timely basis.
9. Prepare and submit As-Built documentation at the conclusion of the project as part of the Final acceptance.
10. Project Completion and Close-Out.
11. All punch list items shall be completed to the satisfaction of PSP prior to the issuance of Final Acceptance.

#### **D. PARCS Planning**

1. Contractor shall review the attached phasing plan (Scope of Work Attachment 4-2) and provide an installation plan covering the topics outlined below and coordinate any phasing changes and modifications with the Airport's PM and Stakeholders:
  - a. Installation Plan of conduit and communication infrastructure

- b. Installation Plan and testing of new server(s)
  - c. Installation Plan of equipment at control center
  - d. Installation Plan of equipment at Test Bed
  - e. Installation plan of equipment
2. Contractor shall coordinate field investigation with PSP and its representatives to provide the following:
- a. Review existing PARCS functionalities
  - b. Review and document existing network capabilities
  - c. Identify new PARCS functionalities and network extensions
  - d. Confirm necessary island modifications
  - e. Review and confirm schedule

**E. Prepare and Review System Design Documents**

1. Contractor shall prepare the following documents as described in this Scope of Work for presentation to and review by PSP:
- a. Conceptual Design Document
  - b. Software Design Document, including integration with the Pre-Booking / Reservation
  - c. Critical Design Document
  - d. Contractor shall present each document to PSP and schedule a formal presentation with PSP Stakeholders. Incorporate comments provided by PSP and provide a revised document.

**F. Submittals:** Contractor to prepare and deliver required submittals to the Airport as described in this Scope of Work, including but not limited to the following:

- 1. Consumable Design for Tickets and Receipts
- 2. Test Scripts as follows:
  - a. Factory Acceptance Test – FAT
  - b. Lane Acceptance Test – LAT
  - c. Site Acceptance Test – SAT
  - d. Operational Demonstration Test – ODT
- 3. Training Manual as follows:
  - a. Cashier
  - b. Supervisor
  - c. Maintenance Technicians
  - d. LPR Workstation
  - e. Network Administrator
  - f. IT Technicians

4. Contractor shall design the PARCS application to be integrated with and to send/receive data including one-time and recurring payment transaction data, personal identifiable information such as customer name, address, email and phone number, and vehicle information such as make and license plate to some or all following applications at a minimum:
  - a. Tyler-Munis application
  - b. Accounts Receivable Software
  - c. Pre-Booking/Reservation System
  - d. Credit Card processor (ABM currently the merchant of record, subject to change in 2025)
  - e. New Valet System

#### **G. PARCS Installation**

1. The Contractor will determine what infrastructure is needed to perform the work required in this scope of work, e.g. project trailer.
2. Contractor shall install required conduit and communication infrastructure at each location.
  - a. Installation of required switches, cabinets, etc.
  - b. Installation and testing of new servers(s)
  - c. Installation of equipment at command center
  - d. Installation of equipment at Test Bed
  - e. Installation of AVI readers in every public entry and exit lane in addition to the lane equipment
3. Installation of equipment at PSP
  - a. Transition to the new equipment offering proposed capabilities including the addition of AVI readings in public entry and exit lanes
  - b. Integration with the Pre-Booking/Reservation System
  - c. Extension of island, installation of conduit, cabling and LPR cameras
  - d. Contractor shall schedule and conduct training of PSP personnel prior to the installation of equipment on-site and in accordance with the details described within the Functional Specifications. Training to include factory certification of PSP factory trained maintenance, IT and operators.
  - e. Contractor shall schedule the Factory Acceptance Test (FAT) upon receipt of final approval by PSP of all documentation. The FAT shall be designed to test at least one of each lane configurations to be installed at the airport and all required functionalities.
  - f. Contractor shall schedule Lane Acceptance Tests (LATs) once the equipment has been installed but prior to opening the lane for patron use.

- g. Contractor shall schedule Site Acceptance Tests (SATs) once the equipment has been installed in all lanes of each site or facility.
- h. Contractor shall schedule Operations Demonstration Tests (ODT) once the equipment has been installed in all lanes.
- i. Deliverable: Subsequent to each test, Contractor shall deliver the approved test scripts for final acceptance by PSP.
- j. Contractor shall provide regular ongoing maintenance for a period of at least three years for all components of the system and shall provide complete and sufficient preventative maintenance and repair training to airport personnel on an annual basis during that period.

#### **4.3 Scope - Pre-Booking/Reservation System**

- A. Contractor shall provide software and services for a Pre-Booking/Reservations System with the capabilities for using predictive occupancy and yield management for pricing offers in accordance with this Scope of Work.
- B. Contractor shall coordinate with PSP before implementation the final functionalities and services, but the system shall include the following functionality at a minimum:
  - 1. Account creation and management
  - 2. Pre-payment for parking transactions
  - 3. Administration of system including modifications to existing websites and creation of new web sites, modifications of web images, scripts, email messages, etc.
  - 4. Ste-up deploy and present new products.
  - 5. Space allocation and occupancy controls
  - 6. Pricing rules and the deployment of yield management principles
  - 7. Proves cross sell and upsell opportunities
  - 8. Integration of patrons into loyalty program(s)
  - 9. Export data in commonly used tools for CRM, research, email marketing, and social media marketing
  - 10. Provide marketing opportunities with 3rd parties such as concessionaires
  - 11. Provide Yield Management solutions with predictive analysis and modeling incorporating potential changes or additions of new products or marketing concepts.
  - 12. Third-party sales and Integrations
- C. **Payment and Audit** – The system shall include the following at a minimum:
  - 1. Available payment options including credit cards, google/android pay, PayPal, etc.
  - 2. Implementation of 1-click payment and stored credit cards
  - 3. End to end audit trail of payments and transaction matching
  - 4. Refunds
  - 5. Contractor to provide secure server solution to:
    - a. Protect customer payments and information

- b. System shall meet PCI requirements throughout the life of the contract
  - c. Provide administration permissions to access information, prepare reports, make changes, etc.
6. Provide a reporting package to include such items as:
- a. Any summary reports
  - b. Visual aids such as graphs, tables and dashboards
  - c. Customer details
  - d. Transactions and revenue reports by time-period and by product and offer
  - e. Analytics and projections
  - f. Standard reports and customer defined reports

**D. Implementation**

Contractor shall coordinate the implementation with the PARCS system and system provider.

**E. Design and Customize Software**

- 1. How the application will be displayed on associated websites and mobile applications
- 2. Once the design is approved by PSP, Contractor shall implement the required programming and customization
- 3. Contractor shall test the application in a closed test environment to ensure the application is working appropriately
- 4. Contractor shall document all system configurations, interfaces, processes and procedures
- 5. Contractor shall deploy the operational integrated System in the production environment across facilities in a non-disruptive, seamless phased transition
- 6. Contractor shall maintain and support the Pre-booking/Reservation application. Hours and description are included in this Scope of Work
- 7. Contractor shall provide on-site training on the on the management, administration, use accounting, etc. of the Pre-booking/reservations system
- 8. Contractor shall provide documentation and manuals in both hard copy and PDF formats, of the system user manuals and training manuals. All documents and manuals shall be in English.

#### **4.4 Support and Service Level Agreement**

- A. Contractor shall provide regular ongoing support and maintenance for a period of at least three years for all components of the system and shall provide complete and sufficient preventative maintenance and repair training to airport personnel on an annual basis during that period. Additionally, the Contractor shall provide ongoing support for elements of the system requiring remote handling or Software-as-a-Service elements for a period of no less than ten years.
- B. Contractor shall provide support response to Defects for both PARCS system and Pre-booking/Reservations system as set forth hereafter. Contractor shall use all reasonable efforts to resolve Defects according to the Target Resolution Time set forth below.
  - 1. Priority 1: Critical Outage: Response within one hour from time notification was made with a four-hour resolution time. A Priority 1 event is applicable when the contractually agreed use is impossible or unreasonably restricted and the error materially affects the airport's business processes.
  - 2. Priority 2: High Priority: Within one hour of the start of the next Business Day. A Priority 2 event is applicable when the contractually agreed use is very restricted. The error slightly affects the Airports business processes, however the Airport is still able to continue work in a slight restricted manner.
  - 3. Priority 3: Medium Priority: Within Eight hours of the start of the next Business Day. A Priority 3 event is applicable when the contractually agreed use is slightly restricted. The error slightly affects the Airport's business processes, however, the Airport is still able to continue work in a slightly restricted manner.
  - 4. Priority 4: Low Priority: Within seven days of notification. Priority 4 events are all events which do not fall into any other category.

#### **4.5 Schedule:**

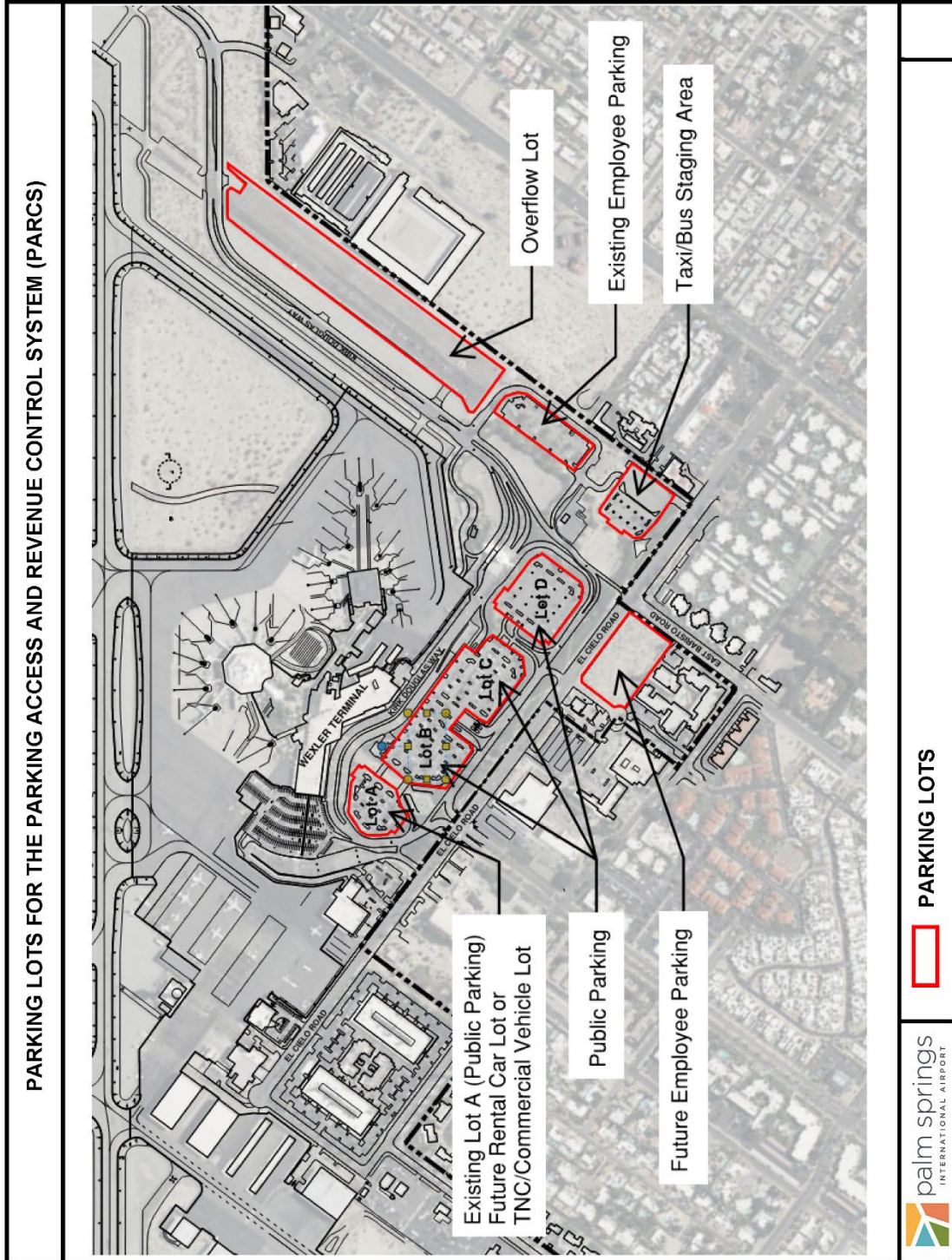
Work will commence within 60 days of issuance of the Notice to Proceed (NTP). Phase I of the work for parking lots A,B, C and D shall be completed within six months of the issuance of the NTP. The schedule for Phases 2 for all other lots lo will be coordinated with the Contractor after award.

#### **4.6 Compensation:**

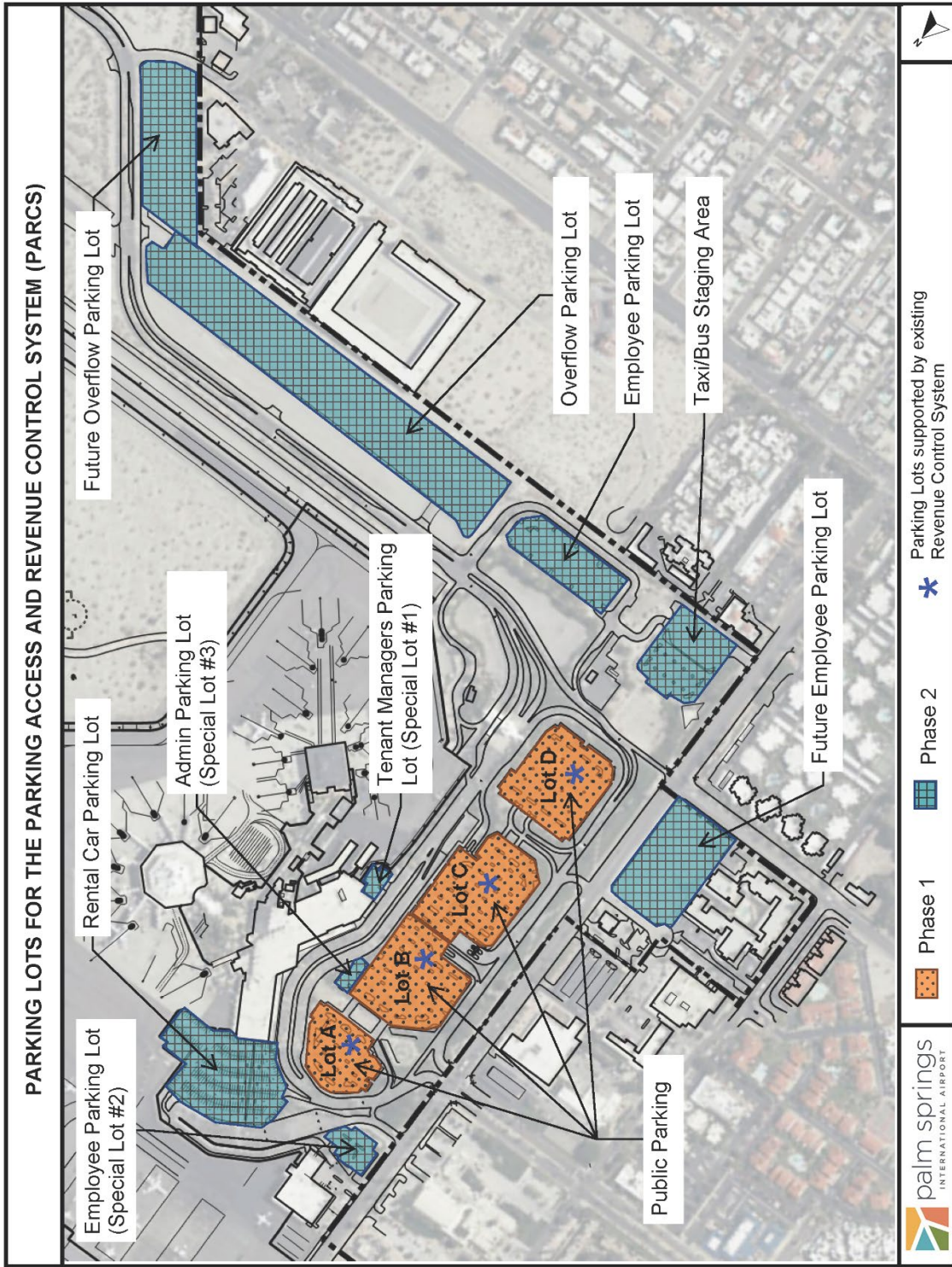
Work will be compensated on a lumpsum basis for the various items shown on the pricing sheet. Contract pricing includes all labor, expenses, and incidentals to complete the work outlined in the contract scope. The Contractor may request monthly payments based on the percentage of work completed for the previous month as long as a detailed progress report is provided to support the amount requested. No additional compensation will be due by the City unless the contract is modified for additional work requested by the City.



SCOPE OF WORK ATTACHMENT 4-1  
EXISTING PARKING LOTS



# SCOPE OF WORK ATTACHMENT 4-2 PHASING PLAN



## SECTION 5 – PROPOSAL FORMAT AND ORGANIZATION

### 5.1 Proposal Requirements:

The firm's proposal should describe the methodology to be used to accomplish the project objectives. The proposal should also describe the work which shall be necessary in order to satisfactorily complete the described requirements.

Please note: this RFP cannot identify each specific, individual task required to implement this project successfully and completely. The City of Palm Springs relies on the professionalism and competence of the selected firm to be knowledgeable of the general areas identified in the scope of work and to include in its proposal all required tasks and subtasks, personnel commitments, man-hours, direct and indirect costs, etc. Proposal Format:

Firms are requested to format their proposals so that responses correspond directly to, and are identified with, the specific evaluation criteria stated in Section 6 below. **The proposals must be in an 8 ½ X 11 format, minimum 10pt font size, minimum ¾" margins, and may be no more than a total of 25 electronic pages for each system being proposed on for maximum of 50 pages if proposing on both systems, including cover letters, organization charts, staff resumes, and appendices. NOTE: Front and Back Covers, Dividers, Attachment's "A", "B", "C" "D" and "E" and Addenda acknowledgments, and the Cost/Rates Proposal (*\*in a separate electronic file*) do NOT count toward the limit (everything else does).**

### 5.2 Proposal Content:

- A. Proposers must provide the information identified below. All such information shall be presented in a format that directly corresponds to the numbering scheme identified here.
- B. Each Proposal Package must include two separate electronic files as follows:

**Electronic File #1, clearly marked "Technical Proposal", shall include the following items:**

**Technical Proposal:** The Technical Proposal (Electronic File #1) shall be clearly marked as per the instructions above and shall include the Sections A, B, C, D and E below:

**Section A:** Firm (including any subcontractors) Qualifications and Experience including References

- A.1 Company Overview. Please provide a description of the services that your company has provided in other cities, how long you have been in operation, and any unique features of the services you offer. Please also include how you meet the minimum requirements that will be scored on a pass fail basis.
- A.2 Indicate the name of any sub-contractor firms or contractors that will be utilized to make up your team. Describe each sub-contractor's qualifications, background, and specific expertise that they bring to the Project.
- A.3 References. Include a minimum of three references on the form provided of recent customers for who your firm has provided similar services as contemplated herein and include it with the forms section of your proposal. In addition to the form, in this section of your proposal please provide any additional information that would

explain in more detail the work undertaken with the references provided and any other material information you would like the City to know about your work for that reference that is relevant to the work described in this RFP.

**Section B:** Staff, Teams (including any subcontractors) qualifications and experience

B.1 Staffing. The proposers shall provide a description of how they plan to staff the project, including any local hires that they would need to make or local partnerships that they would need to establish to ensure successful program implementation.

B.2. List the name and qualifications of the key staff/team members that will be assigned to the Project. Provide detailed qualifications of the Project Manager that will be assigned to the Project.

B.3. Partners. The respondent should list any organizations they plan to partner with to implement the scope of work.

**Section C:** Demonstrated understanding of the overall project and requested scope of work

a. Proposed Approach for Implementing the Scope of Work. Please describe how you would approach the Scope of Work for the City of Palm Springs. This would include how you would address or enhance the tasks in the Scope of Work and how you would partner with the City to implement the service and any innovative solutions planned .

b. Proposer shall identify how each element of the requested scope of work will be met, if there are any deviations from the request and what alternative is being recommending to meet the intent of the scope of work, if any.

c. Anything else the City should consider as part of this process. Proposers should provide any insights or advice they feel may assist the City in implementing the Scope of Work.

d. Identify any “key” or “critical” issues that you believe may be encountered based on the firm’s prior experiences; and provide steps to be taken to ensure the issues identified do not affect the successful delivery of the service.

**Section D: Forms:** - Please include the following completed forms with your technical proposal

a. Completed Signature authorization and Addenda Acknowledgment (see Attachment A)

b. If applicable, your specific request for Local Preference (reference Attachment A) and a copy of a valid business license from a jurisdiction in the Coachella Valley.

c. Completed Affidavit of Non-Collusion (see Attachment B)

d. Completed No Conflict of Interest and Non-Discrimination Form (Attachment C)

e. Completed Public Integrity Business Disclosure Form (Attachment D)

- f. Complete the Reference form (Attachment E)
- g. Complete the Executive Order N-6-22 Certification form (Attachment F)
- h. Complete the Selection of System form (Attachment G)

**Electronic File #2, clearly marked “Cost Proposal”, shall include the following:**

**Section E: Cost Proposal:**

Proposers must use the cost proposal form provided as Attachment “H” in this RFP. The cost proposal file shall be named “RFP 08-24 Proposer Name Cost Proposal”. The Cost Proposal shall be based on a lumpsum for each line item included on the price sheet that is inclusive of all costs to perform the scope of work. Failure to use the Cost Proposal form provided by the City will be cause for rejection of a proposal. Do NOT include Sections A-D in the Cost Proposal, Electronic File #2, Cost proposals will be evaluated by utilizing the ratio of the lowest cost provider times the number of points available for this category.

**5.3 Submission of Proposal:**

The two electronic files shall be uploaded to the PlanetBids vendor portal at the following link: <https://pbsystem.planetbids.com/portal/47688/portal-home> and then selecting the RFP.

If you are proposing on both systems, please submit one technical proposal with sections clearly delineated for each system to be evaluated and check box for both on the systems form.

All submissions must be time and date stamped by the system as being received by the deadline. Late submissions will be rejected.

Proposals not meeting the above criteria may be found to be non-responsive.

## SECTION 6 – PROPOSAL EVALUATION

### 6.1 Evaluation of Proposals:

This solicitation has been developed in the RFP best value format. Accordingly, firms should take note that multiple factors as identified in the RFP will be considered by the Evaluation Committee to determine which proposal best meets the requirements set forth in the RFP document. Price alone will not be the sole determining criteria. Proposal Evaluation Criteria:

An Evaluation Committee, using the following evaluation criteria for this RFP, will evaluate all responsive proposals to this RFP. Firms are requested to submit their proposals so that they correspond to and are identified with the following specific evaluation criteria (100 total points possible):

Criteria	Points
Minimum Requirements	Pass/Fail
Firm's (including any subcontractors) Qualifications and experience in providing similar services as defined in the RFP, including References	20
Staff / Team's (including any subcontractors) Qualifications and experience in providing similar services as defined in the RFP	20
Demonstrated Understanding of the overall project and requested Scope of Work including innovative solutions	35
Cost Proposal	25
<b>Total Points**</b>	<b>100</b>

**Prior City work** - If your firm has prior experience working with the City do not assume this prior work is known to all members of the evaluation committee. All firms are evaluated on the information contained in their proposal, information obtained from references (including the city and past performance if applicable), and presentations if requested. All proposals should be prepared as if the evaluation committee members have no knowledge of the firm, their qualifications, or past projects.

**\*\*Interviews** – The City reserves the right to interview top ranking proposers. If interviews are required, the proposers invited to interview will be notified in advance and provided a format and time for the interviews. An additional 25 points will be used to score the interview based on the same criteria listed in the RFP. The 25 points will be prorated in the same proportion as the proposal scoring listed in the table above.

**Best and Final Offers** – The City reserves the right to ask for Best and Final Offers where costs are over budget.

### 6.2 Selection Process and Award of Contract:

Selection will be made for PARCS and the Booking/Reservation Systems by totaling the points for the proposals for each system and using a set ratio formula to evaluate the price category, plus the interview score (if required). The proposer(s) with the highest number of points will be recommended for award of the contract(s). The City reserves the right to negotiate the terms and conditions of any resulting contract. Final contract award, if any, will be made by the Palm Springs City Council or City Manager depending on value. The selected firm will be required to comply with all insurance and license requirements of the City.

## SECTION 7 – RFP FORMS

**ATTACHMENT “A”- Signature Authorization Form,** including Addenda acknowledgment. \*Must be completed and included with Work/Technical Proposal electronic file #1.

**ATTACHMENT “B” - Non-Collusion Affidavit Form.** \*Must be completed and included with Work/Technical Proposal electronic file #1.

**ATTACHMENT “C” – No Conflict of Interest and Non-Discrimination Form.** \*Must be completed and included with Work/Technical Proposal electronic file #1.

**ATTACHMENT “D” – Business Disclosure Form.** \*Must be completed and included with Work/Technical Proposal electronic file #1.

**ATTACHMENT “E” – Reference Form.** \*Must be completed and included with Work/Technical Proposal electronic file #1.

**ATTACHMENT “F” - Executive Order N-6-22 Certification** \*Must be completed for state funded work and included with the Technical Proposal file #1.

**ATTACHMENT “G” - Selection of System** \*Must be completed to indicate the systems that are being proposed on and included with the Technical Proposal file #1.

**ATTACHMENT “H” – Cost Proposal Form.** \*Must be completed and included in a separate electronic file #2 – do not include this with your Work/Technical Proposal, electronic file #1.

**ATTACHMENT "A"**  
**SIGNATURE AUTHORIZATION**  
**REQUESTS FOR PROPOSALS (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

**\*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH YOUR TECHNICAL/WORK PROPOSAL (Electronic File #1)\***

NAME OF COMPANY(PROPOSER): \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ CELL PHONE \_\_\_\_\_ FAX \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_

A. **I hereby certify that I have the authority** to submit this Proposal to the City of Palm Springs for the above listed individual or company. I certify that I have the authority to **bind** myself/this company in a contract should I be successful in my proposal.

\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
SIGNATURE AND DATE

B. The following information relates to the legal contractor listed above, whether an individual or a company. Place check marks as appropriate:

1. If successful, the contract language should refer to me/my company as:

An individual;

A partnership, Partners' names: \_\_\_\_\_

A company;

A corporation If a corporation, organized in the state of: \_\_\_\_\_

2. My tax identification number is: \_\_\_\_\_

**Please check below IF your firm qualifies as a Local Business as defined in the RFP:**

A Local Business (licensed within the jurisdiction of the Coachella Valley).

Copy of current business license **is required** to be attached to this document.

**ADDENDA ACKNOWLEDGMENT:**

Acknowledgment of Receipt of any Addenda issued by the City for this RFP is required by including the acknowledgment with your proposal. Failure to acknowledge the Addenda issued may result in your proposal being deemed non-responsive.

In the space provided below, please acknowledge receipt of each Addenda:

Addendum(s) # \_\_\_\_\_ is/are hereby acknowledged.



**ATTACHMENT "B"**  
**NON-COLLUSION AFFIDAVIT**  
**REQUESTS FOR PROPOSALS (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

**\*THIS FORM MUST BE COMPLETED EXECUTED BY PROPOSER AND SUBMITTED WITH YOUR TECHNICAL/WORK PROPOSAL (Electronic File #1)\***

The undersigned, deposes and says that he or she is

\_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_, the party making the foregoing Proposal. That the Proposal is not made in the interests of, or on the behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the Proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham Proposal, or that anyone shall refrain from Proposing; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the Proposal price, or of that of any other Proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the Proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her Proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereof, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, Proposal depository, or any other member or agent thereof to effectuate a collusive or sham Proposal.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT "C"**  
**CITY OF PALM SPRINGS, CA**  
**CONFLICT OF INTEREST AND NON-DISCRIMINATION CERTIFICATION**  
**REQUEST FOR PROPOSAL (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

**THIS FORM MUST BE COMPLETED AND SUBMITTED WITH YOUR TECHNICAL/WORK PROPOSAL (Electronic File #1)**

**Conflict of Interest.** Consultant acknowledges that no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement, nor shall Consultant enter into any agreement of any kind with any such officer or employee during the term of this Agreement and for one year thereafter. Consultant warrants that Consultant has not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.

**Covenant Against Discrimination.** In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin ( *i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a "prohibited basis"). Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City's lawful capacity to enter this Agreement, and in executing this Agreement, Consultant certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Consultant activity, including but not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship; and further, that Consultant is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

NAME OF CONSULTANT/VENDOR: \_\_\_\_\_

NAME and TITLE of Authorized Representative:

(Print) \_\_\_\_\_

Signature and Date of Authorized Representative:

(Sign) \_\_\_\_\_ (Date) \_\_\_\_\_

**ATTACHMENT “D”**  
**CITY OF PALM SPRINGS**  
**PUBLIC INTEGRITY DISCLOSURE**  
**(INSTRUCTIONS FOR APPLICANTS)**  
**REQUEST FOR PROPOSAL (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

**THIS FORM MUST BE COMPLETED AND SUBMITTED WITH YOUR TECHNICAL/WORK PROPOSAL (Electronic File #1)**

**Who Must File?**

Applicants that are NOT a natural person or group of natural people that will be identified on the application and seek a City approval determined by a vote of City officials. Examples include corporations, limited liability companies, trusts, *etc.* that seek a City Council approval, or an approval by one of the City’s board or commissions.

**Why Must I File?**

The City of Palm Springs Public Integrity Ordinance advances transparency in municipal government and assists public officials in avoiding conflicts of interest. The City’s Public Integrity Ordinance, codified in Chapter 2.60 of the municipal code, reflects the City’s interest in ensuring that companies (and other legal entities that are not natural people) doing business in the community are transparent and make disclosure as to their ownership and management, *and* further that those companies disclose the identity of any person, with an ownership interest worth two thousand dollars (\$2,000) or more, who has a material financial relationship with any elected or appointed voting City official, or with the City Manager or City Attorney.

Note: A material financial relationship is a relationship between someone who is an owner/investor in the applicant entity and a voting official (or the City Manager or City Attorney), which relationship includes any of the following:

- (1) the owner/investor and the official have done business together during the year prior to the application;
- (2) the official has earned income from the owner/investor during the year prior to the filing of the application;
- (3) the owner/investor has given the official gifts worth fifty dollars (\$50) or more during the year prior to the filing of the application; or
- (4) the official might reasonably be anticipated to gain or lose money or a thing of value, based upon the owner/investor’s interest in the applicant entity, in relation to the application’s outcome.

**When Must I File?**

You must file this form with the Office of the City Clerk at the same time when you file your application for a City approval determined by a vote of City officials, whether elected or appointed.

**What Must I Disclose?**

- A. The names of all natural persons who are officers, directors, members, managers, trustees, and other fiduciaries serving trusts or other types of organizations (attorneys, accountants, etc.).

**Note:** (1) only trusts or other organizations that are not the fiduciaries, (2) if a second entity that is not a natural person serves the applicant entity (e.g., as a member of an applicant LLC), then all officers, directors, members, managers, trustees, etc., of the second entity must be disclosed).

- B. The names of persons owning an interest with a value of two thousand dollars (\$2,000) or more who have a material financial relationship with an elected or appointed City official who will vote on the applicant's application, or with the City Manager or City Attorney.

**What if I Have Questions?**

PENALTIES

Falsification of information or failure to report information required to be reported may subject you to administrative action by the City.

***\*There are some additional supplementary instructions with an example following the form should you need further clarification.***



**PUBLIC INTEGRITY DISCLOSURE  
APPLICANT DISCLOSURE FORM**

1. Name of Entity
2. Address of Entity (Principal Place of Business)
3. Local or California Address (if different than #2)
4. State where Entity is Registered with Secretary of State
<p>If other than California, is the Entity also registered in California? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
5. Type of Entity <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership <input type="checkbox"/> Trust <input type="checkbox"/> Other (please specify)
<b>6. Officers, Directors, Members, Managers, Trustees, Other Fiduciaries (please specify) Note: If any response is not a natural person, please identify all officers, directors, members, managers and other fiduciaries for the member, manager, trust, or other entity</b>
_____ [name] <input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Member <input type="checkbox"/> Manager <input type="checkbox"/> General Partner <input type="checkbox"/> Limited Partner <input type="checkbox"/> Other _____
_____ [name] <input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Member <input type="checkbox"/> Manager <input type="checkbox"/> General Partner <input type="checkbox"/> Limited Partner <input type="checkbox"/> Other _____
_____ [name] <input type="checkbox"/> Officer <input type="checkbox"/> Director <input type="checkbox"/> Member <input type="checkbox"/> Manager <input type="checkbox"/> General Partner <input type="checkbox"/> Limited Partner <input type="checkbox"/> Other _____

7. Owners/Investors with a 5% beneficial interest in the Applicant Entity or a related entity	
<p>EXAMPLE</p> <p><b>JANE DOE</b></p> <hr/> <p>[name of owner/investor]</p>	<p><b>50%, ABC COMPANY, Inc.</b></p> <hr/> <p>[percentage of beneficial interest in entity and name of entity]</p>
<p>A.</p> <hr/> <p>[name of owner/investor]</p>	<hr/> <p>[percentage of beneficial interest in entity and name of entity]</p>
<p>B.</p> <hr/> <p>[name of owner/investor]</p>	<hr/> <p>[percentage of beneficial interest in entity and name of entity]</p>
<p>C.</p> <hr/> <p>[name of owner/investor]</p>	<hr/> <p>[percentage of beneficial interest in entity and name of entity]</p>
<p>D.</p> <hr/> <p>[name of owner/investor]</p>	<hr/> <p>[percentage of beneficial interest in entity and name of entity]</p>
<p>E.</p> <hr/> <p>[name of owner/investor]</p>	<hr/> <p>[percentage of beneficial interest in entity and name of entity]</p>

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.**

Signature of Disclosing Party, Printed Name, Title	Date

## City of Palm Springs, CA.

### Business Disclosure Supplementary Instructions

In an effort to ensure we capture the required business entity information in accordance with the attached instructions, we provide you these supplementary instructions to clearly identify the required information, and the format the information should be provided.

If you, as the applicant, are a business entity (i.e. a corporation or limited liability company), and it is also comprised of other business entities as its members or having a financial interest, all other such business entities must also be disclosed, including those entities other business entities, if any.

Ultimately, the City's disclosure document (attached) requires a listing identifying all natural persons having any financial interest over 5% of the business entities (and any other business entities comprising your business entity).

**As an example, Applicant is:** Acme Brothers, Inc., a California corporation, whose officers are: John Doe, Jill Doe, and Jay Doe, which is owned 50% by Acme Brothers, LLC, a California limited liability company, and John Doe (25% interest) and Jill Doe (25% interest). Acme Brothers, LLC, is managed by Acme Brothers 2, Inc., a California corporation, whose officers are: George Doe, Bill Doe, and Jane Doe, which is owned 100% by Acme Brothers 2, LLC, a California limited liability company, which is managed by George Doe, with George Doe and Jane Doe having 50% interest each.

#### **The full business entity disclosure in this example would resemble the following:**

1. Acme Brothers, Inc., a California corporation
  - a. Officers: John Doe, Jill Doe, and Jay Doe
  - b. Ownership:
    - i. 50% Acme Brothers, LLC, a California limited liability company
    - ii. 25% John Doe
    - iii. 25% Jill Doe
2. Acme Brothers, LLC, a California limited liability company
  - a. Managers: Acme Brothers 2, Inc., a California corporation
  - b. Ownership: 100% Acme Brothers 2, Inc., a California corporation
3. Acme Brothers 2, Inc., a California corporation
  - a. Officers: George Doe, Bill Doe, and Jane Doe
  - b. Ownership: 100% Acme Brothers 2, LLC, a California limited liability company
4. Acme Brothers 2, LLC, a California limited liability company
  - a. Managers: George Doe
  - b. Ownership:
    - i. 50%

**ATTACHMENT "E"**  
**REFERENCES**  
**REQUESTS FOR PROPOSALS (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

<b>Reference 1</b>	
Organization name:	Contact and title:
Address:	Phone number:
	Email Address:
Effective date of contract:	Value of Contract:
Description of products/services provided:	

<b>Reference 2</b>	
Organization name:	Contact and title:
Address:	Phone number:
	Email Address:
Effective date of contract:	Value of Contract:
Description of products/services provided:	

<b>Reference 3</b>	
Organization name:	Contact and title:
Address:	Phone number:
	Email Address:
Effective date of contract:	Value of Contract:
Description of products/services provided:	



**ATTACHMENT "F"**  
**EXECUTIVE ORDER N-6-22 CERTIFICATION**  
**REQUESTS FOR PROPOSALS (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

Executive Order N-6-22 issued by Governor Gavin Newsom on March 4, 2022, directs all agencies and departments that are subject to the Governor's authority to (a) terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions against Russia and Russian entities and individuals; and (b) refrain from entering into any new contracts with such individuals or entities while the aforementioned sanctions are in effect.

Executive Order N-6-22 also requires that any contractor that: (1) currently has a contract with the City of Palm Springs funded through grant funds provided by the State of California; and/or (2) submits a bid or proposal or otherwise proposes to or enter into or renew a contract with the City of Palm Springs with State of California grant funds, certify that the person is not the target of any economic sanctions against Russia and Russian entities and individuals.

The contractor hereby certifies, SUBJECT TO PENALTY FOR PERJURY, that a) the contractor is not a target of any economic sanctions against Russian and Russian entities and individuals as discussed in Executive Order N-6-22 and b) the person signing below is duly authorized to legally bind the Contractor. This certification is made under the laws of the State of California.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT "G"**  
**SELECTION OF SYSTEM**  
**REQUESTS FOR PROPOSALS (RFP 08-24)**  
**PARKING ACCESS AND REVENUE SYSTEMS**

**Please indicate the area of interest by checking the appropriate system(s) below:**

**PARCS ONLY**

**PREBOOKING/RESERVATION ONLY**

**BOTH SYSTEMS**

**ATTACHMENT "H"**  
**COST PROPOSAL - PARCS**  
**REQUEST FOR PROPOSAL (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

**THIS FORM MUST BE COMPLETED AND SUBMITTED IN SEPARATE ELECTRONIC FILE #2 "Cost Proposal", NOT with Electronic File #1, Technical/Work Proposal\*)**

ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASUREMENT	UNIT COST	TOTAL
1	PARCS	1	LUMPSUM		
2	Maintenance	3	YEARS		
3	Support	10	YEARS		
	<b>Total</b>				

Firm Name: \_\_\_\_\_

Signature of Authorized Person: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT "H"**  
**COST PROPOSAL – PREBOOKING/RESERVATION SYSTEM**  
**REQUEST FOR PROPOSAL (RFP 08-24)**  
**PUBLIC ACCESS AND REVENUE SYSTEMS**

**THIS FORM MUST BE COMPLETED AND SUBMITTED IN SEPARATE ELECTRONIC FILE #2 "Cost Proposal", NOT with Electronic File #1, Technical/Work Proposal\*)**

ITEM	DESCRIPTION	QUANTITY	UNIT OF MEASUREMENT	UNIT COST	TOTAL
1	Prebooking / Reservation System	1	LUMPSUM		
2	Maintenance	3	YEARS		
3	Support	10	YEARS		
	<b>Total</b>				

Firm Name: \_\_\_\_\_

Signature of Authorized Person: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## SECTION 8 – SAMPLE AGREEMENT

**Note: This Agreement must be reviewed by Proposers for acceptance during the RFP process, and any changes or questions must be addressed during the question-and-answer period outlined in the RFP. The City will not accept any changes to the agreement after the question period is closed. Proposals submitted with exceptions to scope and agreement terms will not be moved forward in the evaluation process.**



## CONTRACT SERVICES AGREEMENT 24P## PARKING ACCESS AND REVENUE SYSTEMS

THIS AGREEMENT FOR CONTRACT SERVICES (“Agreement”) is made and entered into on \_\_\_\_\_, 20\_\_, by and between the City of Palm Springs, a California charter city and municipal corporation (“City”), and \_\_\_\_\_, a \_\_\_\_\_, (“Contractor”). City and Contractor are individually referred to as “Party” and are collectively referred to as the “Parties”.

### RECITALS

- A. City requires the services of a \_\_\_\_\_, for \_\_\_\_\_, (“Project”).
- B. Contractor has submitted to City a proposal to provide \_\_\_\_\_, to City under the terms of this Agreement.
- C. Based on its experience, education, training, and reputation, Contractor is qualified and desires to provide the necessary services to City for the Project.
- D. City desires to retain the services of Contractor for the Project.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### AGREEMENT

#### 1. CONTRACTOR SERVICES

**1.1 Scope of Services.** In compliance with all terms and conditions of this Agreement, Contractor shall provide services to City as described in the Scope of Services/Work attached to this Agreement as Exhibit “A” and incorporated herein by reference (the “Services” or “Work”). Exhibit "A" includes the agreed upon schedule of performance and the schedule of fees. Contractor warrants that the Services shall be performed in a competent, professional, and satisfactory manner consistent with the level of care and skill ordinarily exercised by high quality, experienced, and well qualified members of the profession currently practicing under similar conditions. In the event of any inconsistency between the terms contained in the Scope of Services/Work and the terms set forth in this Agreement, the terms set forth in this Agreement shall govern.

**1.2 Compliance with Law.** Contractor shall comply with all applicable federal, state, and local laws, statutes and ordinances and all lawful orders, rules, and regulations when performing the Services. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement.

**1.3 Licenses and Permits.** Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the Services required by this Agreement.

**1.4 Familiarity with Work.** By executing this Agreement, Contractor warrants that it has carefully considered how the Work should be performed and fully understands the facilities, difficulties, and restrictions attending performance of the Work under this Agreement.

## **2. TIME FOR COMPLETION**

The time for completion of the Services to be performed by Contractor is an essential condition of this Agreement. Contractor shall prosecute regularly and diligently the work of this Agreement according to the agreed upon schedule of performance set forth in Exhibit "A." Neither Party shall be accountable for delays in performance caused by any condition beyond the reasonable control and without the fault or negligence of the non-performing Party. Delays shall not entitle Contractor to any additional compensation regardless of the Party responsible for the delay.

## **3. COMPENSATION OF CONTRACTOR**

**3.1 Compensation of Contractor.** Contractor shall be compensated and reimbursed for the services rendered under this Agreement in accordance with the schedule of fees set forth in Exhibit "A". The total amount of Compensation shall not exceed \$\_\_\_\_\_.

**3.2 Method of Payment.** In any month in which Contractor wishes to receive payment, Contractor shall submit to City an invoice for Services rendered prior to the date of the invoice, no later than the first working day of such month, in the form approved by City's finance director. Payments shall be based on the schedule of fees set forth in Exhibit "A" for authorized services performed. City shall pay Contractor for all expenses stated in the invoice that are approved by City and consistent with this Agreement, within thirty (30) days of receipt of Contractor's invoice.

**3.3 Changes.** In the event any change or changes in the Services is requested by City, Parties shall execute a written amendment to this Agreement, specifying all proposed amendments, including, but not limited to, any additional fees. An amendment may be entered into:

A. To provide for revisions or modifications to documents, work product, or Work, when required by the enactment or revision of any subsequent law; or

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Contractor's profession.

**3.4 Appropriations.** This Agreement is subject to, and contingent upon, funds being appropriated by the City Council of City for each fiscal year. If such appropriations are not made, this Agreement shall automatically terminate without penalty to City.

#### 4. **PERFORMANCE SCHEDULE**

4.1 **Time of Essence.** Time is of the essence in the performance of this Agreement.

4.2 **Schedule of Performance.** All Services rendered under this Agreement shall be performed under the agreed upon schedule of performance set forth in Exhibit "A." Any time period extension must be approved in writing by the Contract Officer.

4.3 **Force Majeure.** The time for performance of Services to be rendered under this Agreement may be extended because of any delays due to a Force Majeure Event, if Contractor notifies the Contract Officer within ten (10) days of the commencement of the Force Majeure Event. A Force Majeure Event shall mean an event that materially affects the Contractor's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the Work); and (4) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of the City in its capacity as a municipal authority. After Contractor notification, the Contract Officer shall investigate the facts and the extent of any necessary delay and extend the time for performing the Services for the period of the enforced delay when and if, in the Contract Officer's judgment, such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. The Contractor will not receive an adjustment to the contract price or any other compensation. Notwithstanding the foregoing, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

4.4 **Term.** Unless earlier terminated in accordance with Section 4.5 of this Agreement, this Agreement shall continue in full force and effect for a period of \_\_\_\_\_ (*weeks/months*), commencing on \_\_\_\_\_, 202\_\_, and ending on \_\_\_\_\_, 202\_\_, unless extended by mutual written agreement of the Parties.

4.5 **Termination Prior to Expiration of Term.** City may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Contractor. Where termination is due to the fault of Contractor and constitutes an immediate danger to health, safety, and general welfare, the period of notice shall be such shorter time as may be determined by the City. Upon receipt of the notice of termination, Contractor shall immediately cease all Services except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer after such notice. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Contractor shall not be entitled to payment for unperformed Services and shall not be entitled to damages or compensation for termination of Work. If the termination is for cause, the City shall have the right to take whatever steps it deems necessary to correct Contractor's deficiencies and charge the cost thereof to Contractor, who shall be liable for the full cost of the City's corrective action. Contractor may not terminate this Agreement except for cause, upon thirty (30) days written notice to City.



## 5. COORDINATION OF WORK

**5.1 Representative of Contractor.** The following principal of Contractor is designated as being the principal and representative of Contractor authorized to act and make all decisions in its behalf with respect to the specified Services: \_\_\_\_\_ (*name*), \_\_\_\_\_ (*title*). It is expressly understood that the experience, knowledge, education, capability, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services under this Agreement. The foregoing principal may not be changed by Contractor without prior written approval of the Contract Officer.

**5.2 Contract Officer.** The Contract Officer shall be the City Manager or his/her designee ("Contract Officer"). Contractor shall be responsible for keeping the Contract Officer fully informed of the progress of the performance of the Services. Contractor shall refer any decisions that must be made by City to the Contract Officer. Unless otherwise specified, any approval of City shall mean the approval of the Contract Officer.

**5.3 Prohibition Against Subcontracting or Assignment.** The experience, knowledge, education, capability, and reputation of Contractor, its principals and employees, were a substantial inducement for City to enter into this Agreement. Contractor shall not contract with any other individual or entity to perform any Services required under this Agreement without the City's express written approval. In addition, neither this Agreement nor any interest may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement including without limitation the insurance and indemnification requirements. If Contractor is permitted to subcontract any part of this Agreement by City, Contractor shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City.

**5.4 Independent Contractor.** Neither City nor any of its employees shall have any control over the manner, mode, or means by which Contractor, its agents or employees, perform the Services required, except as otherwise specified. Contractor shall perform all required Services as an independent contractor of City and shall not be an employee of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role; however, City shall have the right to review Contractor's work product, result, and advice. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. Contractor shall pay all wages, salaries, and other amounts due personnel in connection with their performance under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance. Contractor shall not have any authority to bind City in any manner.

**5.5 Personnel.** Contractor agrees to assign the following individuals to perform the services in this Agreement. Contractor shall not alter the assignment of the following personnel

without the prior written approval of the Contract Officer. Acting through the City Manager, the City shall have the unrestricted right to order the removal of any personnel assigned by Contractor by providing written notice to Contractor.

Name:

Title:

*(to be inserted)*

*(to be inserted)*

## **5.6 California Labor Code Requirements.**

A. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects (“Prevailing Wage Laws”). If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$15,000 or more for maintenance or \$25,000 or more for construction, alteration, demolition, installation, or repair, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

B. If the Services are being performed as part of an applicable “public works” or “maintenance” project and if the total compensation is \$15,000 or more for maintenance or \$25,000 or more for construction, alteration, demolition, installation, or repair, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements.

## **6. INSURANCE**

Contractor shall procure and maintain, at its sole cost and expense, policies of insurance as set forth in the attached Exhibit "B", incorporated herein by reference.

## **7. INDEMNIFICATION.**

**7.1 Indemnification.** To the fullest extent permitted by law, Contractor shall defend (at Contractor’s sole cost and expense), indemnify, protect, and hold harmless City, its elected officials, officers, employees, agents, and volunteers (collectively the “Indemnified Parties”), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses

including legal costs and attorney fees (collectively “Claims”), including but not limited to Claims arising from injuries to or death of persons (Contractor’s employees included), for damage to property, including property owned by City, for any violation of any federal, state, or local law or ordinance or in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct committed by Contractor, its officers, employees, representatives, and agents, that arise out of or relate to Contractor’s performance of Services or this Agreement. This indemnification clause excludes Claims arising from the sole negligence or willful misconduct of the Indemnified Parties. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor’s indemnification obligation or other liability under this Agreement. Contractor’s indemnification obligation shall survive the expiration or earlier termination of this Agreement until all actions against the Indemnified Parties for such matters indemnified are fully and finally barred by the applicable statute of limitations or, if an action is timely filed, until such action is final.

**7.2 Design Professional Services Indemnification and Reimbursement.** If Contractor’s obligation to defend, indemnify, and/or hold harmless arises out of Contractor’s performance as a “design professional” (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, Contractor’s indemnification obligation shall be limited to the extent which the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor in the performance of the Services or this Agreement, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor’s liability for such claim, including the cost to defend, shall not exceed the Contractor’s proportionate percentage of fault.

## **8. RECORDS AND REPORTS**

**8.1 Reports.** Contractor shall periodically prepare and submit to the Contract Officer reports concerning the performance of the Services required by this Agreement, or as the Contract Officer shall require.

**8.2 Records.** Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

**8.3 Ownership of Documents.** All drawings, specifications, reports, records, documents, and other materials prepared by Contractor in the performance of this Agreement shall be the property of City. Contractor shall deliver all above-referenced documents to City upon request of the Contract Officer or upon the termination of this Agreement. Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights or ownership of the documents and materials. Contractor may retain copies of such documents for Contractor's own use. Contractor shall have an unrestricted right to use the concepts embodied in such documents.

**8.4 Release of Documents.** All drawings, specifications, reports, records, documents, and other materials prepared by Contractor in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

**8.5 Audit and Inspection of Records.** After receipt of reasonable notice and during the regular business hours of City, Contractor shall provide City, or other agents of City, such access to Contractor's books, records, payroll documents, and facilities as City deems necessary to examine, copy, audit, and inspect all accounting books, records, work data, documents, and activities directly related to Contractor's performance under this Agreement. Contractor shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the term of this Agreement and for a period of three (3) years from the date of final payment by City hereunder.

## **9. ENFORCEMENT OF AGREEMENT**

**9.1 California Law.** This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

**9.2 Interpretation.** This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

**9.3 Waiver.** No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of City shall be deemed to waive or render unnecessary City's consent to or approval of any subsequent act of Contractor. Any waiver by either Party of any default must be in writing. No such waiver shall be a waiver of any other default concerning the same or any other provision of this Agreement.

**9.4 Rights and Remedies are Cumulative.** Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative. The exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

**9.5 Legal Action.** In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct, or remedy any default, to recover damages for

any default, to compel specific performance of this Agreement, to obtain injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

**9.6 Attorney Fees.** In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses. These include but are not limited to reasonable attorney fees, expert contractor fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding.

## **10. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

**10.1 Non-Liability of City Officers and Employees.** No officer or employee of City shall be personally liable to the Contractor, or any successor-in-interest, in the event of any default or breach by City or for any amount which may become due to the Contractor or its successor, or for breach of any obligation of the terms of this Agreement.

**10.2 Conflict of Interest.** Contractor acknowledges that no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement, nor shall Contractor enter into any agreement of any kind with any such officer or employee during the term of this Agreement and for one (1) year thereafter. Contractor warrants that Contractor has not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.

**10.3 Covenant Against Discrimination.** In connection with its performance under this Agreement, Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin (*i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a “prohibited basis”). Contractor shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City’s lawful capacity to enter this Agreement, and in executing this Agreement, Contractor certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Contractor activity, including but not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship; and further, that Contractor is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

## **11. MISCELLANEOUS PROVISIONS**

**11.1 Notice.** Any notice, demand, request, consent, approval, or communication that either Party desires, or is required to give to the other Party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail to the address set forth below. Notice shall be deemed communicated seventy-two (72) hours from the time of mailing if mailed

as provided in this Section. Either Party may change its address by notifying the other Party of the change of address in writing.

**To City:** City of Palm Springs  
Attention: City Manager/ City Clerk  
3200 E. Tahquitz Canyon Way  
Palm Springs, California 92262

**To Contractor:** *(to be inserted)*

**11.2 Integrated Agreement.** This Agreement constitutes the entire understanding between the Parties and supersedes and cancels all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter in this Agreement.

**11.3 Amendment.** No amendments or other modifications of this Agreement shall be binding unless through written agreement signed by all Parties.

**11.4 Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement, which shall be interpreted to carry out the intent of the Parties.

**11.5 Successors in Interest.** This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

**11.6 Third Party Beneficiary.** Except as may be expressly provided for in this Agreement, nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party to this Agreement.

**11.7 Recitals.** The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth in this Agreement and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

**11.8 Authority.** The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on behalf of Parties and that by so executing this Agreement the Parties are formally bound to the provisions of this Agreement.

**11.9 Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.

**12. COMPLIANCE WITH ECONOMIC SANCTIONS IN RESPONSE TO RUSSIA'S ACTIONS IN UKRAINE.**

When funding for the services is provided, in whole or in part, by an agency controlled of the State of California, Consultant shall fully and adequately comply with California Executive Order N-6-22 (“Russian Sanctions Program”). As part of this compliance process, Consultant shall also certify compliance with the Russian Sanctions Program by completing the form located in Exhibit “C” (Russian Sanctions Certification), attached hereto and incorporated herein by reference. Consultant shall also require any subconsultants to comply with the Russian Sanctions Program and certify compliance pursuant to this Section.

**13. FEDERAL PROVISIONS**

Since funding for the Services is provided, in whole or in part, by the Federal Aviation Administration, Supplier shall also fully and adequately comply with the provisions included in Exhibit “D” attached hereto and incorporated herein by reference (“Federal Provisions”). With respect to any conflict between such Federal Provisions and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

**[SIGNATURES ON NEXT PAGE]**

**SIGNATURE PAGE TO AGREEMENT BY AND BETWEEN THE CITY OF PALM SPRINGS AND [\*\*\*INSERT NAME\*\*\*]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates stated below.

**CONTRACTOR:**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature  
(2nd signature required for Corporations)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF PALM SPRINGS:**

**APPROVED BY CITY COUNCIL:**

Date: \_\_\_\_\_ Item No. \_\_\_\_\_

**APPROVED AS TO FORM:**

**ATTEST:**

By: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
City Clerk

**APPROVED:**

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

Date: \_\_\_\_\_

- City Manager – over \$50,000
- Deputy/Assistant City Manager – up to \$50,000
- Director – up to \$25,000
- Manager – up to \$5,000



# **EXHIBIT “A”**

## **CONTRACTOR’S SCOPE OF SERVICES/WORK**

Including,

Schedule of Fees

And

Schedule of Performance

# **EXHIBIT “B”**

## **INSURANCE PROVISIONS**

**Including**

**Verification of Coverage,**

**Sufficiency of Insurers,**

**Errors and Omissions Coverage,**

**Minimum Scope of Insurance,**

**Deductibles and Self-Insured Retentions, and**

**Severability of Interests (Separation of Insureds)**

## INSURANCE

1. **Procurement and Maintenance of Insurance.** Contractor shall procure and maintain public liability and property damage insurance against all claims for injuries against persons or damages to property resulting from Contractor's performance under this Agreement. Contractor shall procure and maintain all insurance at its sole cost and expense, in a form and content satisfactory to the City, and submit concurrently with its execution of this Agreement. Contractor shall also carry workers' compensation insurance in accordance with California workers' compensation laws. Such insurance shall be kept in full force and effect during the term of this Agreement, including any extensions. Such insurance shall not be cancelable without thirty (30) days advance written notice to City of any proposed cancellation. Certificates of insurance evidencing the foregoing and designating the City, its elected officials, officers, employees, agents, and volunteers as additional named insureds by original endorsement shall be delivered to and approved by City prior to commencement of services. The procuring of such insurance and the delivery of policies, certificates, and endorsements evidencing the same shall not be construed as a limitation of Contractor's obligation to indemnify City, its elected officials, officers, agents, employees, and volunteers.

2. **Minimum Scope of Insurance.** The minimum amount of insurance required under this Agreement shall be as follows:

1. Comprehensive general liability and personal injury with limits of at least one million dollars (\$1,000,000.00) combined single limit coverage per occurrence and two million dollars (\$2,000,000) general aggregate;

2. Automobile liability insurance with limits of at least one million dollars (\$1,000,000.00) per occurrence;

3. Professional liability (errors and omissions) insurance with limits of at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000) annual aggregate is:

\_\_\_\_\_ required

  x   is not required;

4. Workers' Compensation insurance in the statutory amount as required by the State of California and Employer's Liability Insurance with limits of at least one million dollars \$1 million per occurrence. If Contractor has no employees, Contractor shall complete the City's Request for Waiver of Workers' Compensation Insurance Requirement form.

3. **Primary Insurance.** For any claims related to this Agreement, Contractor's insurance coverage shall be primary with respect to the City and its respective elected officials, officers, employees, agents, and volunteers. Any insurance or self-insurance maintained by City and its respective elected officials, officers, employees, agents, and volunteers shall be in excess of Contractor's insurance and shall not contribute with it. For Workers' Compensation and Employer's Liability Insurance only, the insurer shall waive all rights of subrogation and

contribution it may have against City, its elected officials, officers, employees, agents, and volunteers.

**4. Errors and Omissions Coverage.** If Errors & Omissions Insurance is required, and if Contractor provides claims made professional liability insurance, Contractor shall also agree in writing either (1) to purchase tail insurance in the amount required by this Agreement to cover claims made within three years of the completion of Contractor's services under this Agreement, or (2) to maintain professional liability insurance coverage with the same carrier in the amount required by this Agreement for at least three years after completion of Contractor's services under this Agreement. Contractor shall also be required to provide evidence to City of the purchase of the required tail insurance or continuation of the professional liability policy.

**5. Sufficiency of Insurers.** Insurance required in this Agreement shall be provided by authorized insurers in good standing with the State of California. Coverage shall be provided by insurers admitted in the State of California with an A.M. Best's Key Rating of B++, Class VII, or better, unless otherwise acceptable to the City.

**6. Verification of Coverage.** Contractor shall furnish City with both certificates of insurance and endorsements, including additional insured endorsements, affecting all of the coverages required by this Agreement. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All proof of insurance is to be received and approved by the City before work commences. City reserves the right to require Contractor's insurers to provide complete, certified copies of all required insurance policies at any time. Additional insured endorsements are not required for Errors and Omissions and Workers' Compensation policies.

Verification of Insurance coverage may be provided by: (1) an approved General and/or Auto Liability Endorsement Form for the City of Palm Springs or (2) an acceptable Certificate of Liability Insurance Coverage with an approved Additional Insured Endorsement with the following endorsements stated on the certificate:

A. *"The City of Palm Springs, its officials, employees, and agents are named as an additional insured..." ("as respects City of Palm Springs Contract No. \_\_\_" or "for any and all work performed with the City" may be included in this statement).*

B. *"This insurance is primary and non-contributory over any insurance or self-insurance the City may have..." ("as respects City of Palm Springs Contract No. \_\_\_" or "for any and all work performed with the City" may be included in this statement).*

C. *"Should any of the above-described policies be canceled before the expiration date thereof, the issuing company will mail 30 days written notice to the Certificate Holder named." Language such as, "endeavor to" mail and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representative" is not acceptable and must be crossed out.*

D. Both the Workers' Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of City, its elected officials, officers, employees, agents, and volunteers.

In addition to the endorsements listed above, the City of Palm Springs shall be named the certificate holder on the policies.

All certificates of insurance and endorsements are to be received and approved by the City before work commences. All certificates of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Failure to obtain the required documents prior to the commencement of work shall not waive the Contractor's obligation to provide them.

**7. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City prior to commencing any work or services under this Agreement. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its elected officials, officers, employees, agents, and volunteers; or (2) Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Certificates of Insurance must include evidence of the amount of any deductible or self-insured retention under the policy. Contractor guarantees payment of all deductibles and self-insured retentions.

**8. Severability of Interests (Separation of Insureds).** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.

# **Exhibit C**

## **EXECUTIVE ORDER N-6-22 CERTIFICATION**

Executive Order N-6-22 issued by Governor Gavin Newsom on March 4, 2022, directs all agencies and departments that are subject to the Governor’s authority to (a) terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions against Russia and Russian entities and individuals; and (b) refrain from entering into any new contracts with such individuals or entities while the aforementioned sanctions are in effect.

Executive Order N-6-22 also requires that any contractor that: (1) currently has a contract with the City of Palm Springs funded through grant funds provided by the State of California; and/or (2) submits a bid or proposal or otherwise proposes to or enter into or renew a contract with the City of Palm Springs with State of California grant funds, certify that the person is not the target of any economic sanctions against Russia and Russian entities and individuals.

The contractor hereby certifies, SUBJECT TO PENALTY FOR PERJURY, that a) the contractor is not a target of any economic sanctions against Russian and Russian entities and individuals as discussed in Executive Order N-6-22 and b) the person signing below is duly authorized to legally bind the Contractor. This certification is made under the laws of the State of California.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit D

### FEDERAL AVIATION ADMINISTRATION FEDERAL PROVISIONS

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\*Solicitation Clause also

Updated 2.8.2023

## **FAA - 01      Access to Records and Reports**

**APPLICABILITY** – pertains to all contracts.

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the City, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

Reference: 2 CFR § 200.334, 2 CFR § 200.337, FAA Order 5100.38



**FAA - 02      Affirmative Action Requirement**

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO  
ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

**APPLICABILITY** – pertains to all contracts over \$10,000 as follows:

**Construction** – AIP funded construction work contracts and subcontracts that exceed \$10,000. Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection and other onsite functions incidental to the actual construction.

**Equipment** – any equipment project exceeding \$10,000 that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at a manufacturer’s plant (e.g., firefighting and snow removal vehicles).

**Professional Services** – any professional service agreement if the professional services agreement includes tasks that meet the definition of construction work [as defined by the U.S. Department of Labor (DOL)] and exceeds \$10,000. Examples include installation of monitoring systems (e.g., noise, environmental, etc.).

**Property/Land** – any agreement associated with land acquisition if the agreement includes construction work (defined above) that exceeds \$10,000. Examples include demolition of structures or installation of boundary fencing.

**REQUIREMENTS -**

1. The Contractor’s attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Opportunity Construction Contract Specifications” set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor’s aggregate workforce in each trade on all construction work in the covered area, are as follows:

**Timetables**

Goals for minority participation for each trade:	19%
Goals for female participation in each trade:	6.9%

These goals are applicable to all of the Contractor’s construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor’s compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially

uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is **California, Riverside County, Palm Springs.**

Reference: 41 CFR Part 60-4

### **FAA – 03 Breach of Contract**

**APPLICABILITY** – required for all contracts that exceed the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is \$250,000.

#### **REQUIREMENT -**

See Section 4.5 of the Agreement.

Reference: 2 CFR § 200 Appendix II(A)

## FAA – 04 Buy American Preferences

**APPLICABILITY** – required for contracts defined as follows:

- **Construction Projects** involving the replacement, rehabilitation, reconstruction of airfield surfaces such as on runways, taxiways, taxilanes, aprons, roadways, parking lots, etc. – Insert the Certificate of compliance to FAA Buy American Preference based on Construction Projects.
- **Equipment and Buildings Projects** involving and including the acquisition of equipment such as snow removal equipment, navigational aids, wind cones, and the construction of buildings such as hangars, terminal development, lighting vaults, aircraft rescue & firefighting buildings, etc. - Insert the Certificate of Compliance with FAA Buy American Preference Based on Equipment/Building Projects.

### **REQUIREMENT -**

The Contractor certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

Reference: Title 49 USC § 50101

## **FAA – 05      Civil Rights General**

**APPLICABILITY** – required for all contracts regardless of funding source.

### **REQUIREMENT -**

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

Reference: 49 USC § 47123

## FAA – 06 Civil Rights – Title VI Assurances

**APPLICABILITY** – required for all contracts.

### **REQUIREMENT -**

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

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination

because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

- 1. Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3. Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4. Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the City will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a.** Withholding payments to the Contractor under the contract until the Contractor complies; and/or

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

Reference: 49 USC § 47123, FAA Order 1400.11



## **FAA – 07 Clean Air/Water Pollution Control**

**APPLICABILITY** – This provision is required for all contracts and lower tier contracts that exceed \$150,000.

### **REQUIREMENT -**

If the Agreement exceeds \$150,000, Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

Reference: 2 CFR § 200, Appendix II(G); 42 USC § 7401; 33 USC § 1251

## FAA – 08 Contract Work Hours and Safety Standards

**APPLICABILITY** – This provision is required for contracts as follows:

Contract Work Hours and Safety Standards Act Requirements (CWHSSA) (40 USC §§ 3702 & 3704) requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts not less than one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. CWHSSA prohibits unsanitary, hazardous, or dangerous working conditions on federally-assisted projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements.

### **Contract Types** –

**Construction** – This provision applies to all contracts and lower tier contracts that exceed \$100,000, and employ laborers, mechanics, watchmen, and guards.

**Equipment** – This provision applies to any equipment project exceeding \$100,000 that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g., ARFF and SRE vehicles).

**Professional Services** – This provision applies to professional service agreements that exceed \$100,000 and employs laborers, mechanics, watchmen, and guards. This includes members of survey crews and exploratory drilling operations.

**Property** – While most land transactions do not involve employment of laborers, mechanics, watchmen, and guards, under certain circumstances, a property acquisition project could require such employment. Examples include the installation of property fencing or testing for environmental contamination

## **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### 1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

### 2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

### 3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

#### 4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

Reference: 2 CFR Part 200, Appendix II(E); 2 CFR § 5.5(b); 40 USC § 3702; 40 USC § 3704

## FAA – 09 Copeland Anti-Kickback

### APPLICABILITY -

The Copeland (Anti-Kickback) Act (18 USC § 874 and 40 USC § 3145) makes it unlawful to induce by force, intimidation, threat of dismissal from employment, or by any other manner, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week.

#### **Contract Types –**

**Construction** – This provision applies to all construction contracts and subcontracts financed under the AIP that exceed \$2,000.

**Equipment** – This provision applies to all equipment installation projects (e.g., electrical vault improvements) financed under the AIP that exceed \$2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor's plant (e.g., SRE and ARFF vehicles).

**Professional Services** –The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) include tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate the Copeland Anti-kickback provision.

**Property** –Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the Copeland Anti-Kickback provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The City must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

### REQUIREMENT -

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

Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Parts 3 and 5

## FAA – 10 Davis Bacon Requirements

### APPLICABILITY -

The Davis-Bacon Act (40 USC §§ 3141-3144, 3146, and 3147) ensures that laborers and mechanics employed under the contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the Department of Labor.

### Contract Types –

**Construction** –all construction contracts and subcontracts that exceed \$2,000 and include funding from the AIP.

**Equipment** – This provision applies to all equipment installation projects (e.g., electrical vault improvements) financed under the AIP that exceed \$ 2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor's plant (e.g., SRE and ARFF vehicles)

**Professional Services** – The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) includes tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate this clause.

**Property** – Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The City must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

**Fencing Projects** – Fencing projects that exceed \$2,000 must include this provision.

### DAVIS-BACON REQUIREMENTS

#### 1. Minimum Wages.

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination

for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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

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

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

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

### 3. Payrolls and Basic Records.

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

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, the City, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to

include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, the City, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, City, or Owner).

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

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

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

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

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

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

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



Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

#### 4. Apprentices and Trainees.

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

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour

Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 5. Compliance with Copeland Act Requirements.

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

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

#### 7. Contract Termination: Debarment.

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

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

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

#### 9. Disputes Concerning Labor Standards.

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

#### 10. Certification of Eligibility.

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

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

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

Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Part 5; 49 USC § 47112(b); 40 USC §§ 3141-3144, 3146, and 3147

## FAA – 11 Debarment and Suspension

**APPLICABILITY** - This requirement applies to covered transactions, which are defined in 2 CFR part 180 (Subpart B). AIP funded contracts are non-procurement transactions, as defined by 2 CFR § 180.970. Covered transactions include any AIP-funded contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the amount of the contract is expected to equal or exceed \$25,000. This includes contracts associated with land acquisition projects.

### **REQUIREMENT -**

#### **A11.3.1 Bidder or Offeror Certification**

By submitting a bid/proposal under the solicitation for this contract, the Contractor must have certified that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

#### **A11.3.2 Lower Tier Contract Certification**

##### CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

The Contractor, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The Contractor will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

Reference: 2 CFR part 180 (Subpart B), 2 CFR part 200 Appendix II(H), 2 CFR Part 1200, DOT Order 4200.5; Executive Orders 12549 and 12689

## **FAA – 12 Disadvantaged Business Enterprise**

**APPLICABILITY** – all contracts with Airports that have a DBE program on file with the FAA.

### **Contract Assurance (§ 26.13) –**

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 CFR part 26 in the award and administration of Department of Transportation-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 City deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

**Prompt Payment (§26.29)** – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [10 days] days from the receipt of each payment the prime contractor receives from [the City]. The prime contractor agrees further to return retainage payments to each subcontractor within [30 days] 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 [City]. This clause applies to both DBE and non-DBE subcontractors.

### **Termination of DBE Subcontracts (49 CFR § 26.53(f)) –**

The prime Contractor must not terminate a DBE subcontractor listed in response to the solicitation (or an approved substitute DBE firm) without prior written consent of the City. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains written consent of the City. Unless City consent is provided, the prime Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The City may provide such written consent only if the City agrees, for reasons stated in the concurrence document, that the prime Contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to the City its request to terminate and/or substitute a DBE subcontractor, the prime Contractor must give notice in writing to the DBE subcontractor, with a copy to the City, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the City and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the City should not approve the prime Contractor's action. If required

in a particular case as a matter of public necessity (e.g., safety), the City may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Reference: 49 CFR part 26

## **FAA – 13 Distracted Driving**

**APPLICABILITY** - contracts that exceed the micro-purchase threshold of 2 CFR § 200.320 (currently set at \$10,000).

### **REQUIREMENT -**

#### **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the City encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

Reference: Executive Order 13513, DOT Order 3902.10

**FAA – 14 Prohibition on Certain Telecommunications and Video Surveillance Services and Equipment**

**APPLICABILITY** - all AIP funded contracts and lower-tier contracts.

**REQUIREMENT** -

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

Reference: 2 CFR § 200, Appendix II(K); 2 CFR § 200.216



## **FAA – 15 Drug Free Workplace Requirements**

**APPLICABILITY** - This provision applies to all AIP funded projects, but not to the contracts between the City and a contractor, subcontractors, suppliers, or subgrantees.

The Drug-Free Workplace Act of 1988 requires some Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency. The Act does **not** apply to contractors, subcontractors, or subgrantees, although the Federal grantees workplace may be where the contractors, subcontractors, or subgrantees are working.

Reference: 49 CFR part 32, Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*, as amended)

## FAA – 16 Equal Employment Opportunity

**APPLICABILITY** – The purpose of this provision is to provide equal opportunity for all persons, without regard to race, color, religion, sex, or national origin who are employed or seeking employment with contractors performing under a federally-assisted construction contract. There are two provisions — a construction clause and a specification clause.

The equal opportunity contract clause applies to any contract or subcontract when the amount exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract or subcontract must include the clause for the remainder of the year, regardless of the amount or the contract.

### **Contract Types –**

**Construction** – all construction contracts and subcontracts as required above.

**Equipment** – all equipment contracts as required above that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g., ARFF and SRE vehicles).

**Professional Services** – all professional service agreements as required above.

**Property** – all land acquisition projects that include work that qualifies as construction work as defined by 41 CFR part 60 as required above. An example is installation of boundary fencing.

### **REQUIREMENT -**

#### **A16.3.1 EEO Contract Clause**

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access

to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **A16.3.2 EEO Specification**

#### **STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS**

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- 2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- 3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- 4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal

procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
  - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
  - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
  - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and

apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all

personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Reference: 2 CFR 200, Appendix II(C), 41 CFR § 60-1.4, 41 CFR § 60-4.3, Executive Order 11246



## **FAA – 17 Federal Fair Labor Standards Act**

**APPLICABILITY – Contract Types** – Per the Department of Labor, all employees of certain enterprises having workers engaged in interstate commerce; producing goods for interstate commerce; or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person are covered by the FLSA.

All consultants, sub-consultants, contractors, and subcontractors employed under this federally assisted project must comply with the FLSA.

**Professional Services** – 29 CFR § 213 exempts employees in a bona fide executive, administrative or professional capacity. Because professional firms employ individuals that are not covered by this exemption, the agreement with a professional services firm must include the FLSA provision.

### **REQUIREMENT -**

The provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), are incorporated by reference with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

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

Reference: 29 USC § 201, et seq; 2 CFR § 200.430

## FAA – 18 Lobbying and Influencing Federal Employees

**APPLICABILITY-** all contracts exceeding \$100,000.

### **REQUIREMENT -**

Consultants and contractors that apply or bid for an award of \$100,000 or more must have certified that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC §1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

For an award over \$100,00, the bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment, 2 CFR part 200, Appendix II(I), 49 CFR part 20, Appendix A

## FAA – 19 Prohibition of Segregated Facilities

**APPLICABILITY** - The Contractor must comply with the requirements of the EEO clause by ensuring that facilities they provide for employees are free of segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. This clause must be included in all contracts that include the equal opportunity clause, regardless of the amount of the contract.

**Contract Types** – any contract containing the Equal Employment Opportunity clause of 41 CFR § 60-1.4. This obligation flows down to subcontract and sub-tier purchase orders containing the Equal Employment Opportunity clause.

**Construction** – Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

**Equipment** – On site installation of equipment such as airfield lighting control equipment meets the definition of construction and thus this provision would apply. This provision does not apply to equipment projects involving manufacture of the item at a vendor's manufacturing plant. An example would be the manufacture of a SRE or ARFF vehicle.

**Professional Services** – Professional services that include tasks that qualify as construction work as defined by 41 CFR part 60-1. Examples include the installation of noise monitoring equipment.

**Property/Land** – Land acquisition contracts that include tasks that qualify as construction work as defined by 41 CFR part 60-1. Examples include demolition of structures or installation of boundary fencing.

### REQUIREMENT -

- (a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.
- (b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- (c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

Reference: 2 CFR Part 200, Appendix II (C); 41 CFR Part 60-1

## **FAA – 20 Occupational Safety and Health Act**

**APPLICABILITY – Contract Types –** All contracts and subcontracts must comply with the Occupational Safety and Health Act of 1970 (OSH). The U.S. Department of Labor Occupational Safety and Health Administration (OSHA) oversees the workplace health and safety standards wage provisions from OSH.

### **REQUIREMENT -**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

Reference: 29 CFR part 1910

## FAA – 21 Procurement of Recovered Materials

**APPLICABILITY – Contract Types** – This provision applies to any contracts that include procurement of products designated in subpart B of 40 CFR part 247 where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

**Construction and Equipment** – all construction and equipment projects.

**Professional Services and Property** – if the agreement includes procurement of a product that exceeds \$10,000.

### REQUIREMENT -

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

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

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

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

Reference: 2 CFR § 200.323, 2 CFR Part 200, Appendix II (J); 40 CFR part 247, 42 USC § 6901, et seq (Resource Conservation and Recovery Act)

## **FAA – 22 Rights to Inventions**

**APPLICABILITY – Contract Types** – This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of experimental, developmental, or research work. This clause is not applicable to construction, equipment, or professional service contracts unless the contract includes experimental, developmental, or research work.

### **REQUIREMENT -**

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the City in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

Reference: 2 CFR § 200, Appendix II(F), 37 CFR 401

## **FAA - 23 Seismic Safety**

**APPLICABILITY – Contract Types** – This provision applies to construction of new buildings and additions to existing buildings financed in whole or in part through the Airport Improvement Program.

**Professional Services**– any contract involved in the construction of new buildings or structural addition to existing buildings.

**Construction** – any contract involved in the construction of new buildings or structural addition to existing buildings.

**Equipment** – if the project involves construction or structural addition to a building such as an electrical vault project to accommodate or install equipment.

**Land** – This provision will not typically apply to a property/land project.

### **REQUIREMENT -**

#### **A23.3.1 Professional Service Agreements for Design**

##### **SEISMIC SAFETY**

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

#### **A23.3.2 Construction Contracts**

##### **SEISMIC SAFETY**

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

Reference: 49 CFR Part 41

## **FAA – 24 Tax Delinquency and Felony Conviction**

**APPLICABILITY** – This provision applies to all contracts funded in whole or part with AIP.

### **REQUIREMENT -**

The Contractor must have certified under the procurement process that resulted in the award of this contract that:

- Contractor has not been convicted of a Federal felony within the last 24 months; or
- Contractor does not have any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

Reference: Sections 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103), and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions



## **FAA – 25 Termination of Contract**

**APPLICABILITY** – All contracts and subcontracts in excess of \$10,000.

### **REQUIREMENT -**

See Section 4.5 of the Agreement.

Reference: 2 CFR § 200 Appendix II(B), FAA Advisory Circular 150/5370-10, Section 80-09

## FAA – 26 Foreign Trade Restriction

**APPLICABILITY** – all AIP funded projects.

### **REQUIREMENT -**

#### **TRADE RESTRICTION CERTIFICATION**

By accepting this contract the Contractor certifies the following statements are true –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Contractor must provide immediate written notice to the City if the Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Contractor agrees it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against

U.S. firms as published by USTR, unless the Contractor has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the City cancellation of the contract or subcontract for default at no cost to the City or the FAA.

Reference: 49 USC § 50104, 49 CFR part 30

## **FAA – 27 Veteran’s Preference**

**APPLICABILITY** – This provision applies to all AIP funded projects that involve labor to carry out the project. This preference, which excludes executive, administrative, and supervisory positions, applies to covered veterans [as defined under § 47112(c)] only when they are readily available and qualified to accomplish the work required by the project.

### **REQUIREMENT -**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

Reference: 49 USC § 47112(c)

## **FAA – 28 Domestic Preferences for Procurements**

**APPLICABILITY** – all contracts and Purchase orders for work or products under the grant.

### **REQUIREMENT -**

The Contractor certifies by signing and submitting its bid or proposal that, to the greatest extent practicable, the Contractor has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

Reference: 2 CFR § 200.322; 2 CFR Part 200, Appendix II(L)