



SPECIFICATIONS

FOR

TAXIWAY SHOULDER

IMPROVEMENT PROJECT

VOLUME 1 OF 2

SAN BERNARDINO INTERNATIONAL AIRPORT

IN THE

CITY OF SAN BERNARDINO,

CALIFORNIA

Issued for Bid

October 2021

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TAXIWAY SHOULDER IMPROVEMENT PROJECT
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**San Bernardino International Airport Authority
Notice Inviting Bids**

Prospective bidders are hereby notified that the San Bernardino International Airport Authority ("AGENCY" and/or "Agency") will receive sealed bid proposals for the

TAXIWAY SHOULDER IMPROVEMENT PROJECT (the "Project").

The complete Bid shall be submitted in a sealed envelope with the Bidder's name, the project name, project number, and the words "Sealed Bid - Do Not Open" clearly marked on the outside of the mailing envelope. Bids may not be submitted by facsimile or electronic telecommunication. Bids submitted via USPS or other courier service must have the project name and project number and the words "Sealed Bid - Do Not Open" clearly marked on the outside of the mailing envelope.

All Bids shall be submitted by delivery to the AGENCY at the address provided below and will be received until **10:00 AM on January 11, 2022**. Bids will be publicly opened and read at that time. Any bids received after the specified date and time will be rejected and returned unopened. The address for delivery of Bids is:

San Bernardino International Airport Authority
Attention: Secretary of the Commission
1601 E. 3rd Street
San Bernardino, California 92408

The selected CONTRACTOR shall construct all improvements in accordance with the project plans and specifications and the request for proposals specific to this bid package. Time for completion is as follows:

1. Base Bid = **120 calendar days**.

Any questions or communications shall be in writing. Written questions regarding details of the project will be accepted until **December 30, 2021 at 10:00AM**. Written questions must be directed to Jeff Barrow, Director of Development, San Bernardino International Airport Authority at Jeff Barrow jbarrow@sbdairport.com, or the street address for submitting bids.

Contract Documents may be obtained from the AGENCY at 1601 E. 3rd Street, San Bernardino, California 92408, upon payment of a **\$350.00 nonrefundable fee** and are also available for free download on the AGENCY's website, www.sbiaa.org. Make all checks payable to "San Bernardino International Airport Authority." A full list of all requirements regarding this project can be found in the project specifications. All information, addendums, and notices regarding this Project will be posted to the AGENCY website. It is the sole responsibility of all perspective respondents to check the website for any pertinent information that may be issued.

A **mandatory** pre-bid meeting will be held at 1601 E. 3rd Street, San Bernardino, CA 92408 on **December 14, 2021 at 10:00 AM**.

Each Bidder must be licensed in the State of California and qualified to perform the Work described in the project specifications. Pursuant to Public Contract Code Section 3300, the

CONTRACTOR must possess the following classification of CONTRACTOR's license: **CLASS "A"**.

Each Bidder, and each subcontractor listed by the Bidder in the bid proposal, must be registered and qualified to perform public work pursuant to Labor Code § 1725.5. Registration number for the prime contractor and each sub-contractor must be included as required with the bid proposal.

Bidders are advised that SBIAA has established an overall Disadvantaged Business Enterprise (DBE) race-neutral goal for this solicitation to ensure equal participation of DBE groups in accordance with Title 49 CFR Part 26.51. The DBE participation goal for this solicitation is **7.3%**, this is expressed as a percentage of the total dollar value of the resultant agreement.

No contractor or subcontractor may be awarded a contract for public work on a public works contract unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Each Bidder, and each subcontractor listed by the Bidder in the bid proposal, must be registered and qualified to perform public work pursuant to Labor Code § 1725.5.

Each proposal must be accompanied by a certified or cashier's check or bid bond for ten percent (10%) of the maximum amount of the bid. Said check shall be made payable to the San Bernardino International Airport Authority and when delivered with a proposal, shall constitute a guaranty that Bidder will, if an award is made to them in accordance with the terms of said Bidder's proposals: execute a contract on the AGENCY's standard form, together with Labor Code Certification thereon; furnish contract performance and payment bonds with a corporate surety or sureties satisfactory to the AGENCY, each for not less than one-hundred percent (100%) of total bid price; furnish certificates of insurance evidencing that all insurance coverage required by the contract has been secured.

This is a "public work" project and each CONTRACTOR to whom a contract is awarded must pay the prevailing rates and post copies thereof at the job site. In addition, it is also the responsibility of each CONTRACTOR to follow all requirements of the State of California Labor Code as it relates to public works contracts. Before work can begin on a public works contract, the CONTRACTOR shall submit a Public Works Contract Award Information Form (DAS 140) to an applicable apprenticeship program that can supply apprentices to the site of the public work. The CONTRACTOR must request dispatch of required apprentices from an Apprenticeship Program for each apprenticeable craft or trade by giving the Apprenticeship Program. The CONTRACTOR is to use a Request for Dispatch of an Apprentice Form (DAS 142) to submit his/her written request.

Bidders are hereby notified that the prevailing rate of per diem wages, as determined by the Director of Industrial Relations, applicable to the work to be done for the locality in which the work is to be performed in compliance with Section 1773 of the Labor Code of the State of California are on file in the AGENCY's principal office at the address listed above and will be made available to any interested party upon request.

Bidders are hereby notified that this Project is subject to the payment of prevailing wages as determined by the United States Secretary of Labor, pursuant to the Federal Davis-Bacon Act.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The AGENCY reserves the right to accept or reject any or all proposals, to waive any irregularity or to award the contract to other than the lowest bidder consistent with the award of the contract to the lowest responsible bidder. Bidder may not withdraw their bid for one hundred and twenty (120) days after bid opening.

San Bernardino International Airport Authority
San Bernardino, California

By: _____
Jennifer Ferris, Secretary of the Commission

A. INSTRUCTIONS TO BIDDERS

The San Bernardino International Airport Authority (SBIAA) (the "Agency") seeks to obtain bids from qualified licensed contractors to undertake the construction and improvement of a public works project of the Agency identified as TAXIWAY SHOULDER IMPROVEMENT PROJECT (the "Project"). Licensed contractors shall submit sealed written bids proposing to undertake the Project in accordance with these Instructions to Bidders. Contingent upon funding availability from the Federal Aviation Administration through the Airport Improvement Program, and subject to the final award of a contract by the governing board of the Agency, the Project shall be constructed and installed by the lowest responsible bidder in accordance with the Project plans and specifications and contract documents prepared by the Agency's consulting engineer.

The word "Bidder" as used in these Instructions to Bidders, means and refers to each person or entity who submits a written proposal to the Agency to be considered to undertake the Project. Such a written proposal is referred to herein as a "Bidder's Proposal" and each Bidder's Proposal shall be completed and submitted to the Agency for consideration as set forth in these Instructions to Bidders.

The Agency reserves the discretion to reschedule, suspend or abandon the invitation for submission of bids for the Project. The Agency further reserves the discretion to modify or supplement the written plans and specifications and any of the "Related Bidder's Documents" as this term is defined below, for the Project, as well as these Instructions to Bidders, at any time prior to the date scheduled for the delivery of Bidders' Proposals to the Agency. In addition, the Agency may in its sole discretion reject all Bidders' Proposals which it receives, and/or the Agency may choose not to award a contract to anyone for the construction and improvement of the Project.

Included in the Bidding Documents is a document entitled "General Glossary of Defined Terms". In addition to the definitions of certain words or phrases which appear in the three (3) preceding paragraphs, or elsewhere in these Instructions to Bidders, the definitions of other words and phrases used in these Instructions to Bidders are set forth in the General Glossary of Defined Terms and the FAA General Contract Specifications, Section 10, entitled "Definition of Terms". In general unless the context of usage otherwise requires, the meaning of a defined term or phrase is denoted in these Instructions to Bidders by a capitalized initial letter in the particular word. For example, the words "Bidder's Proposal" mean and refer to the completed form of the document included in Bidding Documents commencing with page **BD-1** and through and including page **BD-55**, which has been executed by an authorized principal, officer or representative of the Bidder and delivered to the Agency in accordance with these Instructions to Bidders.

Bidders are also advised that the General Specifications and the Project Construction Plans for the Project contain a number of specifically defined terms and technical definitions for the Project.

1. General Description of the Project

In general, the work for this project includes 1) Removal and replacement asphalt concrete taxiway shoulders. 2) Restore airfield pavement markings. 3) Hydroseeding

Award of this contract is subject to the availability of FAA funding (if any) through the Airport Improvement Program (AIP). The San Bernardino International Airport Authority SBIAA reserves the right to award a contract amount which may be less than the lowest bid or to not award this contract to any bidder.

Bidders are hereby notified that certain funds obtained from the Federal Aviation Administration (the "FAA") shall be used by the Agency to pay for the cost of the Project. Although, the FAA shall not be a party to the Project Contract, each Bidder is further notified that provisions of the Project Contract mandate compliance by the Bidder with the applicable regulations and requirements of the FAA. Bidders are advised to review the form of the Project Contract which is included as a Bidding Document for further details.

2. Minimum Bidder Contractor License Standard

Each Bidder shall possess at the time the Bidder's Proposal is submitted to the Agency at a minimum a current and valid State of California contractor's license Type A and a valid City of San Bernardino, California, Business Registration Certificate. The first payment for work or material under the contract shall not be made unless and until the Registrar of Contractors verifies to the Agency that the records of the Contractors' State License Board indicate that the successful Bidder was properly licensed at the time it submitted its Bidder's Proposal to the Agency. Any Bidder or contractor not so licensed shall be subject to the rights of the Agency under the Project Contract and all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board.

3. Responsibility Criteria

Responsibility is the apparent ability of the Bidder to successfully meet and complete the requirements of the Contract. The Agency reserves the right to consider the financial responsibility and general competency of each Bidder, as well as its reputation within the industry. Agency may request that the apparent low Bidder provide a financial statement, audited if necessary, including the Bidder's latest balance sheet and income statement. The Agency expects that each Bidder will fully and truthfully disclose all information required of the Bidder by the Bid Documents. The prospective Bidder, in order to be evaluated by the Agency as being a responsible contractor, may be requested to confirm the following responsibility criteria:

- a. Has or can secure adequate financial resources to perform the contract;
- b. Is able to meet the performance or delivery schedule of the contract, taking into consideration other business commitments; and
- c. Has a satisfactory record of performance. A contractor seriously deficient in current contract performance, considering the number of contracts and extent of the deficiencies, is presumed not to meet this requirement unless the deficiencies are beyond its control or there is evidence to establish its responsibility notwithstanding the deficiencies. Evidence of such satisfactory performance record should show that the contractor:

- (1) Has a satisfactory record of integrity in its dealings with government agencies and with subcontractors, and is otherwise qualified to receive an award under applicable laws and regulations;
- (2) Has the necessary organization, experience, satisfactory safety record, accounting and operational controls and technical skills or the ability to obtain them;
- (3) Has the necessary production, construction, and technical equipment and facilities or the ability to obtain them; and
- (4) Has an adequate safety record in performance of other construction projects.

4. Contents of Proposal Forms

The Agency shall furnish Bidders with the form on which the Bidder's Proposal shall be submitted to the Agency. All papers bound with or attached to the form of the Bidder's Proposal are necessary parts and must not be detached, or omitted by the Bidder when the completed Bidder's Proposal is submitted to the Agency.

The General Specifications, Project Construction Plans and other documents designated in these Instructions to Bidder's and the Bidder's Proposal shall be considered a part of the proposal whether attached or not.

5. Not used

6. Examination of Plans, Specifications and Site

Each Bidder is expected to carefully examine the Project site, the proposal, plans, specifications, and contract forms. Each Bidder shall satisfy itself as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of the proposed contract. The submission of a Bidder's Proposal shall be prima facie evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the proposed contract, plans and specifications.

It is understood and agreed that subsurface information, whether included in the plans, specifications, or otherwise made available to the Bidder, was obtained and is intended for the Agency's design and estimating purposes only. Such information has been made available for the convenience of all Bidders. It is further understood and agreed that each Bidder is solely responsible for all assumptions, deductions, or conclusions which it may make or obtain from its examination of such records of subsurface investigations and tests that are furnished by the Agency, if any.

7. Completion of Bidder's Proposal (and Related Bidder's Documents) and Submission to Agency.

The Bidder shall submit its proposal on the forms furnished by the Agency. (See: Bidding Documents **BD-22** through **BD-55**, inclusive). Each Bidder shall complete the

Bidder's Proposal and the Related Bidder's Documents, including any modification or addition to the text of the Bidder's Proposal and/or to the text of any Related Bidder's Document announced by one or more Addenda issued by the Agency before the date scheduled for the receipt of the Bidder's Proposals in the Notice Inviting Bids or in any Addendum. Each blank of each page of the form of the Bidder's Proposal and the applicable Related Bidder's Documents shall be completed in full by the Bidder as appropriate. All blank spaces in the proposal forms must be correctly filled in where indicated for each and every item for which a quantity is given. The Bidder shall state the price (written in ink or typed) for which it proposes for each quantity or work item identified in the Bid Schedule. The completed form of the Bidder's Proposal (and each of the Related Bidder's Documents) shall be submitted in ink and without erasures. However, a Bidder may correct errors in its Bidder's Proposal prior to delivering it to the Agency by striking or lining out mistakes and entering corrections immediately thereabove, together with the initials of the authorized representative of the Bidder next to the line or lines of text as corrected.

Each Bidder shall sign its Bidder's Proposal correctly and in ink. If the Bidder's Proposal is made by an individual, his/her name and post office address must be shown. If made by a partnership, the name and post office address of each member of the partnership must be shown. If made by a corporation, the person signing the proposal shall give the name of the state under the laws of which the corporation was chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a Bidder's Proposal as an agent shall file evidence of his/her authority to do so and that the signature is binding upon the firm or corporation.

The Agency may reject any Bidder's Proposal to which the Bidder has added conditions, limitations or provisions which do not appear in the form of the Bidder's Proposal or any of the Related Bidder's Documents. The Agency may also, at its discretion, reject any Bidder's Proposal for which the Bidder has failed to supply all requested information, misrepresented any statement of fact or omitted or failed to complete any Related Bidder's Documents, or failed to meet the qualification requirements included in Related Bidder's Documents.

The Agency will not consider an alternate Bidder's Proposal relating to the Project either in whole or in part unless such an alternate is called for in the Bidding Documents or an Addendum.

No Bidder's Proposal will be considered which is not submitted on the form set forth in the Bidder Documents.

At the time when these Instructions to Bidders are initially available for distribution to interested Bidders, the due date for receipt of completed Bidder's Proposals by the Secretary of the Commission of the Agency is set forth in the Notice Inviting Bids.

8. Irregular Bidder's Proposals

Bidder's Proposals shall be considered irregular for the following reasons:

- a. If the Bidder's Proposal is on a form other than that furnished by the Agency, or if the Agency's form is altered, or if any part of the Bidder's Proposal form is detached.

- b. If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind which make the Bidder's Proposal incomplete, indefinite, or otherwise ambiguous.
- c. If the Bid Schedule does not contain a unit price for each pay item listed on the Bid Schedule, except in the case of authorized alternate pay items, for which the Bidder is not required to furnish a unit price.
- d. If the Bid Schedule contains unit prices that are obviously unbalanced.
- e. If the Bidder's Proposal is not accompanied by the Bidder's Proposal Guaranty specified in Section 12.

The Agency reserves the rights to reject any irregular Bidder's Proposal and to waive technicalities if such waiver is in the best interest of the Agency and conforms to California Law pertaining to the letting of construction contracts.

9. **Project Site Job Walk and List of Bidders to Whom Addendum or Bulletins May Be Issued Prior to Delivery Date for Completed Bidder's Proposals**

A mandatory pre-bid job walk has been scheduled at the offices of the Agency at 1601 E. Third Street, San Bernardino, CA at the date and time provided in the Notice Inviting Bids.

Before the date scheduled for the pre-bid job walk with the Agency Engineer, Bulletins and Addenda may be issued at any time by the Agency to Bidder's who have picked up a set of the Bidding Documents from the Secretary of the Commission of the Agency and provided correct contact information to the Agency Engineer.

After the date scheduled for the pre-bid job walk with Agency Engineer, Bulletins and Addenda will only be issued to Bidder's who attended the pre-bid job walk or who are otherwise known to the Agency or who have requested such information from the Agency.

10. **Omissions and Discrepancies in Bidding Documents**

If a Bidder finds a discrepancy, or notes an omission in any Bidding Document or a Bidder is in doubt as to the interpretation of a word or phrase, such Bidder should immediately notify Jeff Barrow at (909) 382-4100, ext. 2010 or by e-mail to jbarrow@sbdairport.com. The Agency shall consider all inquiries from Bidders relating to such discrepancies, omissions, interpretations and other matters which the Agency receives prior to the time scheduled for the receipt of Bidder's Proposals. In particular cases which the Agency deems appropriate, the Agency may respond to a Bidder's inquiry by issuing a Bulletin or Addendum to all Bidders. Prospective bidders shall submit their Request for Information (RFI) to the agency prior of the time period provided in the Notice Inviting Bids.

11. **Manner of Execution of Bidder's Proposal (and Each Related Bidder's Document) By Bidders**

The Bidder may be conducting business under a number of different organizational structures. Provided the Bidder possesses the valid State of California contractor's license as required for the Project (as set forth above), the Bidder may conduct business as an individual, as a partnership, as a limited liability company, or as a corporation. In each case, the Bidder's Proposal (and each of the relevant Related Bidder's Document, as indicated) shall be executed by a principal, officer or authorized representative of the business organization which submits the Bidder's Proposal.

Each Bidder is required to supply certain information relating to its particular business organization, as set forth in the Bidder's Proposal. Unless the Bidder completes the applicable section of the Bidder's Proposal which identifies additional authorized representatives of the Bidder for purposes of executing any such documents, the Bidder's Proposal, including each of the relevant Related Bidder's Documents, shall be executed by or on behalf of the Bidder by the same person.

A notary acknowledgment of the signature of the principal, officer or authorized representative of the Bidder shall be attached to the executed form of the Bidder's Proposal.

12. Bidder's Proposal Guaranty (Bid Bond)

As stipulated in the Notice Inviting Bids, each Bid shall be accompanied by a cashier's check made payable to the Agency or a satisfactory Bid bond in favor of the AGENCY, executed by the Bidder and a California-admitted surety company as Surety, in an amount not less than ten percent (10%) of the Base Bid ("Bidder's Proposal Guaranty"). The check or Bid bond shall be given as a guarantee that the Bidder will execute the contract if it is awarded to it, in conformity with the contract documents, and will provide the surety bonds as specified in these Bidding Requirements and the Contract Documents within ten (10) calendar days after notification of the Agency's award of the contract to the Bidder. In case of refusal or failure to execute the Agreement and to provide the bonds and other documents within ten (10) calendar days of the award, the, cashier's check or Bid bond, as the case may be, shall be forfeited to the Agency, as liquidated damages.

13. Packaging and Delivery of Completed Bidder's Proposal (and Related Bidder's Documents) to the Agency

Once the Bidder's Proposal and Related Bidder's Documents have been completed and executed by the Bidder, the Bidder's Proposal and the Related Bidder's Documents shall be placed in an envelope with the name and business address of the Bidder on the outside, sealed and addressed and delivered or mailed, postage prepaid to:

Secretary of the Commission
San Bernardino International Airport Authority
1601 E. Third Street
San Bernardino, CA 92408

Such envelope shall also contain the following label in the outside lower left-hand corner thereof:

Bid Proposal of (Bidder's Name)_____

for the TAXIWAY SHOULDER IMPROVEMENT PROJECT AT SAN BERNARDINO INTERNATIONAL AIRPORT

When sent by United States Mail the sealed proposal, marked as indicated above, should be enclosed in an additional envelope.

No consideration shall be given by the Agency to any Bidder's Proposal received after the date and time set by the Notice Inviting Bids (or such other date and time as reset in an Addendum) for the opening of Bidder's Proposals. Bidder's Proposals received after the date and time set for the opening of Bidder's Proposals shall be returned to the Bidder unopened.

As of the date when the Notice Inviting Bids is initially published, the time and date set for the receipt of Bidder's Proposals including any Bidder's Proposal delivered by United States Mail or by commercial business mail or delivery service, is set forth in the Notice Inviting Bids.

14. Withdrawal of Bidder's Proposal

Any Bidder may, without prejudice, withdraw its Bidder's Proposal at anytime prior to the time and date set by the Notice Inviting Bids for the receipt of Bidder's Proposals; provided that any such request to withdraw a previously submitted Bidder's Proposal is made in writing and duly executed by the Bidder's duly authorized representative and delivered by the Agency Secretary of the Commission at the address set forth in these Instructions to Bidders. The Agency Secretary of the Commission will mark the outside of the envelope containing the Bidder's Proposal as "Cancelled and Withdrawn by Bidder" and return the withdrawn Bidder's Proposal to the Bidder unopened.

A withdrawal of a Bidder's Proposal shall be effective upon receipt by the Agency Secretary of the Commission of the Bidder's written notice of withdrawal of its Bidder's Proposal.

15. Modification of Bidder's Proposal (and any Related Bidder's Documents)

Any Bidder may modify its Bidder's Proposal (including any Related Bidder's Documents) as previously submitted, by following the withdrawal of Bidder's Proposal procedure set forth in the preceding section of these Instructions to Bidders prior to the time and date set for the receipt by the Agency of Bidder's Proposals, and by thereafter submitting a new Bidder's Proposal together with new Related Bidder's Documents. For the purposes of accomplishing such a modification, a Bidder's Proposal shall be deemed withdrawn once the sealed envelope containing the previously submitted Bidder's Proposal has been marked by the Agency Secretary of the Commission as "Cancelled and Withdrawn". The Agency Secretary of the Commission shall hold all "Cancelled and Withdrawn" Bidder's Proposals for pick-up by the Bidder to whom it belongs. The Agency will not recognize modifications of a Bidder's Proposal attempted by methods other than as set forth herein.

16. Opening of Bidder's Proposals

Bidder's Proposals shall be opened, and read, publicly at the time and place specified in the Notice Inviting Bids. Bidders, their authorized agents, and other interested persons

are invited to attend. All Bidder's Proposals shall be opened by the Agency Secretary of the Commission, and the Bid Price proposed by each Bidder as indicated on the Bid Schedule of each Bidder's Proposal shall be publicly announced. Bidder's Proposals that have been withdrawn (by written or telegraphic request) or received after the time specified for opening Bidder's Proposals shall be returned to the Bidder unopened.

All interested persons may attend the opening of the Bidder's Proposals and the public announcement of the results of the Bid Prices proposed by the Bidders. The Bid Proposal opening shall be conducted at the office of the Agency.

17. Evaluation of Bidder's Proposals

Promptly following the opening of the Bidder's Proposals, the Agency Engineer and Agency staff shall begin evaluating the Bidder's Proposals and all of the Related Bidder Documents to verify completeness and responsiveness. It is the intention of the Agency that the Agency Engineer and Agency staff will complete such a review of each Bidder's Proposal within Ten (10) business days following the time and date scheduled in the Notice Inviting Bids for the receipt of Bidder's Proposals. After the Bidder's Proposals are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the proposal by the unit bid prices. The Agency Engineer and the Agency staff shall submit a written recommendation to the governing board of the Agency identifying the lowest responsible bidder based upon an evaluation of all Bidders' Proposals.

As a condition to submitting its Bidder's Proposal, each Bidder agrees to promptly respond in writing, if requested, to any inquiry posed by the Agency Engineer and/or Agency staff following the opening of the Bidder's Proposal during the evaluation of the Bidder's Proposal. A failure by a Bidder to either promptly or satisfactorily respond to such an inquiry may be grounds for the rejection of the Bidder's Proposal.

After the Bidder's Proposals are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the proposal by the unit bid prices. If the Bidder's proposal contains a discrepancy between unit bid process written in words and unit bid prices written in numbers, the unit price shown in words shall govern. The Agency Engineer and the Agency staff shall submit a written recommendation to the governing board of the Agency identifying the lowest responsible bidder based upon an evaluation of all Bidders' proposals.

18. Disqualification of Bidders

A Bidder's Proposal and/or a Bidder shall be considered disqualified for consideration by the Agency as a responsive bid for any of the following reasons:

- a. Submitting more than one Bidder's Proposal from the same partnership, firm, or corporation under the same or different name.
- b. Evidence of collusion between the Bidder and other Bidders. Bidders participating in such collusion shall be disqualified as Bidders for any future work of the Agency until any such participating Bidder has been reinstated by the Agency as a qualified Bidder.

- c. If the Bidder is considered to be in "default" under the subsection titled ISSUANCE OF PROPOSAL FORMS.

19. Filing of Bid Protests

This Section sets forth the procedure and remedies concerning submittal and consideration of all protests received by AGENCY with respect to the Invitation for Bids (IFB). By submitting a Bid, each Bidder hereby agrees and understands that the Bidder must comply with these protest procedures and exhaust all administrative remedies set forth herein prior to the initiation of any type of related legal action. Upon the express written agreement of the parties, this protest procedure can also be used to resolve issues surrounding the AGENCY's determination of a Bidder as not responsible. The following terms as used in this Section shall have the following meanings:

"Protest" shall mean a written objection by an interested party or affected party to (i) the requirements or specifications contained in the IFB (solicitation protest); or (ii) a proposed award recommendation (award protest).

"Days" shall mean calendar days, unless otherwise specified.

"Interested Party" shall mean all Bidder or prospective Bidders on a procurement.

"Solicitation Protest Statement" shall mean a written objection during the bid solicitation phase of the procurement, which shall be submitted prior to the Bid due date as specified herein.

"Award Protest Statement" shall mean a written objection to the award of the Contract, which shall be submitted with five (5) days after opening of the Bids, as specified herein.

"File or Submit" shall refer to the date of receipt by AGENCY.

"Affected Parties" shall mean a Bidder on a procurement, whose direct economic interest would be affected by a submitted protest.

Specific procedures and requirements are as follows:

A. Solicitation Phase Protest. The purpose of the IFB is to obtain competitive Bids from interested Bidders. Any interested party who has reason to believe that a free and open competition has not taken place or that a particular specification or requirement is impractical, unduly restrictive, or ambiguous may advise the AGENCY of its concerns by submitting a detailed Solicitation Protest Statement in accordance with the requirements set forth below in this Section A.

(1) Contents and Requirements

A Solicitation Protest Statement must be submitted to AGENCY's Manager of Capital Projects identified in the IFB via electronic mail (email) by 4:00p.m. (Pacific Time zone) no less than fifteen (15) days prior to the Bid due date, and must contain all of the following to be considered:

- a) The name, address, and telephone number of the protestor;
- b) The Project Name and Project Number of the IFB being protested;
- c) A detailed statement setting forth the grounds for protest, which shall include, in sufficient detail to establish the merits of the protest, all the factual and legal documentation in support of the protest; and
- d) The desired resolution to the protest.

If the submitted Solicitation Protest Statement does not comply with the requirements set forth herein, then it will not be considered for evaluation and will be returned to the protestor. The Solicitation Protest Statement shall not be amended after filing, and AGENCY will not consider any unsolicited information provided after filing. Any argument not raised in the Solicitation Protest Statement shall be deemed waived, including as a part of the award protest. Failure to file the Solicitation Protest Statement within the time period specified herein shall constitute a waiver of the right to protest the specifications or requirements of the IFB.

Solicitation Protest Statements are public documents, and AGENCY will provide copies of the Solicitation Protest Statements to any interested person upon written request.

(2) Evaluation and Determination

No hearing will be held on the protest. AGENCY's Manager of Capital Projects, or designee, will review all material submitted, conduct an investigation of the facts, and may, but need not, request other Bidders to submit statements or arguments regarding the protest. AGENCY's Manager of Capital Projects, or designee, may in his/her sole discretion, discuss the protest with the protestor.

AGENCY's Manager of Capital Projects, or designee, shall issue a final written decision regarding any solicitation protest to each Bidder prior to Bid opening. The written decision will cite any actions that will or will not be taken in response to the Solicitation Protest Statement. The decision of the Manager of Capital Projects concerning the Solicitation Protest Statement shall be final, and there shall be no further administrative recourse.

B. Award Protest

(1) Contents and Requirements

Following the opening of the Bids any affected party, who has reason to believe that a free and open competition has not taken place in the Bid opening, evaluation of the Bids, and award recommendation, is permitted to protest AGENCY's award of the Contract by submitting the Award Protest Statement to the AGENCY's Manager of Capital Projects no later than 4:00p.m. (Pacific Time zone) on the fifth day after the AGENCY's posting of the Low Bidder Notice on the AGENCY's website. The Award Protest Statement must be submitted timely and contain all of the following to be considered:

- a) The name, address and telephone number of the protestor;

- b) The Project Name and Project Number of the IFB being protested;
- c) The AGENCY action or recommendation that is being protested;
- d) The name(s) of all affected parties;
- e) A detailed statement setting forth the grounds, legal authority and facts in support of the protest, including all documents and evidence;
- f) Each and every ground on which the protestor bases the protest by specific references to parts of the IFB, which shall be attached as exhibits;
- g) Each and every reason that all other affected parties who may be in line for the purchase or Contract award should not be awarded the purchase or Contract;
- h) A clear statement of the relief requested and the statutory or case law basis for such relief; and
- i) Signed and sworn by a principal of the protestor.

If the submitted Award Protest Statement does not comply with the requirements set forth herein, then it will not be considered for evaluation, and will be returned to the protestor. The Award Protest Statement shall not be amended after filing, and the AGENCY will not consider any unsolicited information provided after filing. Any argument not raised in the Award Protest Statement shall be deemed waived.

Award Protest Statements are public documents. AGENCY will notify the affected parties when a protest has been submitted, and will provide copies of the Protest Statements to the affected parties as soon as is reasonably practical.

(2) Evaluation and Determination

The affected parties may file responsive statements in support of or in opposition to the protest within three (3) business days after the receipt of the Award Protest Statement from AGENCY. The Manager of Capital Projects, or designee, shall review the facts and all submittals relative to the Award Protest Statement and shall issue a written decision setting forth the basis for such decision. The written decision will be issued to the protestor and to all affected parties.

Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except in the sole discretion of the Manager of Capital Projects, or designee. In the event a hearing is conducted, the Manager of Capital Projects, or designee, shall issue written notice to the protestor and affected parties identifying the date and time for the hearing, along with rules concerning the hearing.

C. Delay in Award

Execution of any proposed contract shall be delayed pending the resolution of the protest unless one or more of the following conditions is present:

1. The items or services being procured are urgently required;
2. Delivery or performance will be unduly delayed by failure to make award promptly; or
3. Failure to make prompt award will otherwise cause undue harm to AGENCY.

D. No Limitation on Remedies

Nothing contained herein shall be construed to act as a limitation on AGENCY's choice of remedies or confer any right upon any interested party or affected party to a remedy.

E. Basis for Choice of Remedy

In determining the appropriate remedy, the AGENCY shall consider all the circumstances surrounding the IFB and/or award, including, but not limited to:

1. The seriousness of any deficiency found to exist in the contracting process;
2. The effect of the action on the competitive process;
3. Any urgency surrounding the Contract requirement; and
4. The effect that implementing the remedy will have on the AGENCY.

F. Remedies

If the AGENCY determines that the award or proposed award was not made in accordance with applicable statutes, regulations, policies and/or procedure, the AGENCY, in its sole discretion, may grant any of the following remedies or any other remedy it deems appropriate:

1. Prior to award, AGENCY may issue a new solicitation, make a new selection/award recommendation, or award the Contract consistent with applicable statutes, regulations, policies and procedures;
2. In its sole discretion, take no further action; or
3. Take any other action that is permitted by law to promote compliance.

20. Bid Additives

This project does not include bid additive(s).

21. Consideration of Bidder's Proposals and Award of Project Contract by the Agency

The governing board of the Agency shall consider the award of the Project Contract to the lowest responsible Bidder at a public meeting within **one hundred twenty (120)**

days following the date set in the Notice Inviting Bids for the receipt of Bidder's Proposals (as such date may be revised by Addendum).

No Bidder may withdraw its Bid during this 120-day period. Agency will return the Bidder's Proposal Guaranty, except any guarantees which have been forfeited, to the respective Bidders whose Bids they accompanied, within sixty (60) days after the Contract is awarded to the successful Bidder, or rejection of all Bids, or upon receipt of a written request for return received after the period set forth herein.

The lowest responsible Bidder to which award may be made shall be determined as follows:

- a. Availability of FAA Funds.**
- b. The lowest responsible Bidder shall be the bidder that is eligible for award.**
- c. The award shall be based on the Base Bid**

The governing board of the Agency reserves the right to take no action with respect to the Bidder's Proposal, to reject all Bidder's Proposals and further reserves the right to waive any irregularity in any Bidder's Proposal, or in any of the Related Bidder's Documents accompanying any Bidder's Proposal, if it deems such waiver to be in the best interest of the Agency.

The governing board of the Agency shall award the Project Contract to the lowest responsible Bidder upon an approving majority vote of its members who are eligible to vote and who are present at the public meeting at which award of the Project Contract is considered. A Notice of Award of Project Contract shall be transmitted by the Agency Secretary of the Commission to the Bidder which is awarded the Project Contract by the Agency governing board, if any, (the "Contractor") within five (5) calendar days following the date on which the governing board of the Agency awards the Project Contract to such Bidder and such Bidder shall execute the final form of the Project Contract substantially in the form as provided in the Bidding Documents within ten (10) calendar days after the receipt of the final form of such Project Contract for the Base Bid and such number, if any, of the Bid Alternatives as may have been awarded by the Agency at its discretion.

Until the award of the Project Contract is made, the Agency reserves the right to reject a Bidder's Proposal for any of the following reasons:

- a. If the Bidder's Proposal is irregular as specified in the section titled IRREGULAR PROPOSALS.
- b. If the Bidder is disqualified for any of the reasons specified in the subsection titled DISQUALIFICATION OF BIDDERS.

In addition, until the award of the Project Contract is made, the Agency reserves the rights to reject any or all Bidder's Proposals, waive technicalities, if such waiver is in the best interest of the Agency and is in conformance with applicable state law pertaining to the letting of construction contracts, advertise for new Bidder's Proposals, or proceed with the Project as otherwise authorized by applicable law.

The Agency reserves the right to cancel the award of a Project Contract without liability to any Bidder, except return of Bidder's Proposal Guaranty, at any time before the Project Contract has been fully executed by all parties and is approved by the Agency in accordance with the section titled APPROVAL OF CONTRACT.

22. Retention of Bidders' Proposal Guaranties

The Bidder's Proposal Guaranty of three or more low Bidders, the number being at the discretion of the Agency, will be held for one hundred twenty (120) consecutive calendar days or until sixty (60) days after the Agency's issuance of a Notice of Award and the posting by the successful Bidder of the bonds and certificates of insurance required and return of executed copies of the Contract, whichever first occurs, at which time the deposits will be returned. The Bidder's Proposal Guaranty of other Bidders will be returned after opening of the Bids.

23. Project Contract Bond(s) and Certificates of Insurance Required of Contractor

The Contractor shall, upon issuance of the Notice of Award of Project Contract, promptly secure with a responsible corporate surety or sureties admitted to do business in the State of California by the Department of Insurance, a contract performance bond in an amount of not less than 100% of the total Bid Price, conditioned upon faithful performance by the Contractor of all requirements under the Project Contract.

In addition, upon issuance of the Notice of Award of Project Contract, the Contractor shall promptly secure with a responsible corporate surety or sureties admitted to do business in the State of California by the Department of Insurance, a payment bond in an amount of not less than 100% of the total Bid Price, conditioned upon payment in full of the claims of all persons performing labor upon or furnishing materials to be used in or furnishing appliances or power contributing to the work to be performed under the Project Contract.

All such bonds shall be subject to the approval of Agency, and shall be submitted on the forms provided in the Bidding Documents.

24. Execution of the Project Contract

The Contractor shall execute the Project Contract with the Agency, substantially in the form provided in the Bidding Documents within 10 calendar days from the date of issuance of the Notice of Award of Project Contract.

Failure of the Contractor to execute the Project Contract and furnish acceptable surety bonds within the 10 calendar day period specified in the section titled PROJECT CONTRACT BOND(S) AND CERTIFICATES OF INSURANCE REQUIRED OF CONTRACTOR, or to conform to any of the requirements in connection therewith, shall be just cause for cancellation of the award of the Project Contract to such Bidder, and the retention by Agency of the Bidder's Proposal Guaranty. By submitting a Bidder's Proposal, each Bidder acknowledges and agrees that the damages to the Agency from the successful Bidder failing to timely execute the Project Contract are and will be impractical and extremely difficult to establish, and the amount of the Bidder's Proposal Guaranty is a reasonable estimate of the Agency's damages in such event. If the

successful Bidder refuses or fails to execute the Project Contract, the Agency may award the Project Contract to the Bidder whose Bidder's Proposal is next most acceptable to the Agency, or the Agency may suspend the Project, or the Agency may re-advertise for new bids for the Project.

The Contractor will be required, before the Project Contract is finally executed by the Agency, to furnish confirming evidence of its business existence and of the authority of the officer signing the Project Contract and all surety bonds.

25. Approval of Contract

Upon receipt of the Project Contract and Project Contract surety bonds executed by the successful Bidder, the Agency shall complete the execution of the Project Contract in accordance with California law and return a fully executed Project Contract to the Contractor. Delivery of a fully executed Project Contract to the Contractor shall constitute the Agency's approval to be bound by the successful Bidder's Proposal and the terms of the Project Contract.

26. Substitution of Securities for Withheld Project Contract Funds

The Contractor may, at its sole cost and expense, substitute securities equivalent to any monies withheld by the Agency to insure performance under the Project Contract, in accordance with California Public Contract Code Section 22300. Such securities shall be deposited in a form acceptable to the Agency with a State of California or Federally Chartered Bank as escrow agent at a location within California which shall pay such monies to the Contractor upon satisfactory completion of the work undertaken in the Project Contract. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. Securities eligible for investment under this section shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The Contractor shall enter into an escrow agreement in substantially the form set forth in California Public Contract Code Section 22300 and the Contractor shall pay all expenses of establishing and maintaining the escrow account. The Contractor shall also obtain the written consent of the payment and performance bond sureties to the substitution of securities for withheld Project Contract funds, the escrow agent, the escrow agreement and the securities to be deposited into the escrow, if any.

27. Project Contract Insurance

Each Bidder is advised that the Bidder who is awarded the Project Contract by the Agency shall not commence work on the Project until it has secured all performance and payment bonds and insurance required under the Bidding Documents nor shall it allow any subcontractor to commence work on any subcontract, until all similar insurance required of the subcontractor has been obtained.

In accordance with Section 3700 of the California Labor Code, the Contractor shall (a) maintain adequate Workers' Compensation Insurance under the laws of the State of California for all labor employed by it or any subcontractor under it, or (b) secure from the Director of Industrial Relations a certificate to self-insure such labor, when such labor comes within the protection of such Workers' Compensation Insurance Laws.

Prior to performing work under this contract, Contractor shall sign and file with Agency the "Certificate Regarding Workers Compensation," which includes the following: "I am aware of the provisions of §3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this contract."

28. Contractor's Insurance Coverage

Indemnification – To the fullest extent permitted by law, the Contractor agrees to and does hereby indemnify, defend and hold harmless the Agency and each of their officers, agents, employees, and consultants (including the Agency's architects and engineers) from every claim or demand made and every liability, loss, damage, or expense of any nature whatsoever (including, but not limited to attorneys' fees and costs including fees of consultants) which may be incurred by reason of:

a. Liability for damage for death or bodily injury to persons or injury to property sustained by the Contractor or any other person, firm or corporation employed by the Contractor upon or in connection with the work called for in this Contract, except for liability for damages referred to above which result from the sole negligence or willful misconduct of the Agency, or each of their officers, agents or independent Contractor who are directly employed by the Agency or for defects in design furnished by such persons.

b. Any injury to or death of persons or damage, loss or theft of any property, sustained by any person, firm, or corporation, including the Agency, arising out of, or in any way connected with the work covered by this Contract, whether said injury or damage occurs either on Agency property or not, except for liability for damages which result from the sole negligence or willful misconduct of the Agency, its officers, employees, agents or independent contractors who are directly employed by the Agency, or for defects in design furnished by such persons.

c. Any dispute between Contractor and Contractor's subcontractors, suppliers, sureties, including, but not limited to, any stop notice actions.

The Contractor, at its own expense, cost, and risk, shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the Agency, and each of their officers, agents, employees or consultants on any such claim, demand or liability and shall pay or satisfy any judgment that may be rendered against the Agency, and each of their officers, agents or employees in any action, suit or other proceedings as a result thereof.

Insurance – Without in any way affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract the types of insurance with limits set forth in Section 31 of the Contract and Article 11 of the General Conditions.

Proof of Coverage – Contractor shall immediately furnish certificates of insurance to the Agencies administering the contract evidencing the insurance coverage, including endorsements, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performances of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Contractor shall furnish certified copies of the policies and all endorsements.

Insurance Review – The above insurance requirements are subject to periodic review by the Agencies. The Agencies' Executive Director is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Executive Director determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the Agencies. In addition, if the Executive Director determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Executive Director is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the Agencies, inflation, or any other items reasonably related to the Agencies' risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

29. Prevailing Wages

Bidders are advised that the Project is subject to the requirements for the payment of prevailing wages, as determined by the United States Secretary of Labor, pursuant to the Federal Davis-Bacon Act. Bidders are further advised that the Project is also subject to other federal laws, regulations, order or rules relating to labor utilized on the Project. Bidders are directed to thoroughly review Section 8 of the Contract Documents (Page CD-3) entitled LABOR PROVISIONS.

Bidders are advised that the Project is a California "public work" project. Except to the extent of any greater requirements under the Davis-Bacon Act, the Project and work under the Contract is subject to the requirements of the California Labor Code, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the work is to be performed in accordance with Sections 1773.1, 1774, 1775 and 1776 of the California Labor Code and the obligation to comply with Section 1777.5 of the California Labor Code governing employment of apprentices.

The prevailing rate of per diem wages, as determined by the Director of Industrial Relations, applicable to the work to be done for the locality in which the work is to be performed in compliance with Section 1773 of the Labor Code of the State of California are on file in Agency's principal office at the address listed in the Notice Inviting Bids and will be made available to any interested party upon request. Once awarded, the Contractor shall obtain copies of the above-referenced prevailing wage sheets and post a copy of such wage rates at appropriate, conspicuous, weatherproof points at the job

site. The general prevailing rate of per diem wages can also be located on the internet at the following web address: www.dir.ca.gov

Contractor shall be required to comply with the requirements of Section 1771.4 of the California Labor Code to furnish directly to the Labor Commissioner on a monthly basis the records specified in Section 1776 of the California Labor Code

30. Buy American Preferences

- a. The Aviation Safety and Capacity Expansion Act of 1990 (49 USC s/s 50101) provides that preference be given to steel and manufactured products produced in the United States when funds are expended pursuant to a grant issued under the Airport Improvement Program. An Airport Improvement Program grant is a substantial source of funds for this Project. The following terms and conditions apply to this Project:
 - (1) Steel and manufactured products. As used in this clause, steel and manufactured products include (1) steel produced in the United States or (2) a manufactured product produced in the United States, if the cost of its components mined, produced or manufactured in the United States exceeds 60 percent of the cost of all its components and final assembly has taken place in the United States. Components of foreign origin of the same class or kind as the products referred to in subparagraphs b. (1) or (2) shall be treated as domestic.
 - (2) Components. As used in this clause, components mean those articles, materials, and supplies incorporated directly into steel and manufactured products.
 - (3) Cost of Components. This means the costs for production of the components, exclusive of final assembly labor costs.
- b. The successful Bidder will be required to assure that only domestic steel and manufactured products will be used by the Contractor, subcontractors, materialmen and suppliers in the performance of the Project Contract, except those:
 - (1) that the US Department of Transportation has determined, under the Aviation Safety and Capacity Expansion Act of 1990, are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
 - (2) that the US Department of Transportation has determined, under the Aviation Safety and Capacity Expansion Act of 1990, that domestic preference would be inconsistent with the public interest; or
 - (3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.
- c. For the latest information on Buy American product requirements and list of equipment meeting Buy American requirements for AIP grant projects visit FAA web site at <http://www.faa.gov>

B. BIDDER'S PROPOSAL INCORPORATING RELATED BIDDER'S DOCUMENTS

SAN BERNARDINO INTERNATIONAL AIRPORT

BIDDER'S PROPOSAL (BID FORM)

TAXIWAY SHOULDER IMPROVEMENT PROJECT

NAME OF BIDDER _____

TO: Secretary of the Commission
San Bernardino International Airport Authority
1601 E. Third Street
San Bernardino, CA 92408

BID:

Pursuant to your published Notice Inviting Bids for the above-referenced public works project (the "Project"), and in accordance with the Bidding Documents for the Project, including the Instructions to Bidders, General Specifications, Project Construction Plans, Contract Documents and the other related documents for the Project, the following bid for the performance of the public works construction improvements comprising the Project is hereby submitted to the San Bernardino International Airport (the "Agency") by the firm indicated above (the "Bidder") on this Bidder's Proposal:

ADDENDUM:

Acknowledgment is hereby made by the Bidder of receipt and incorporation of Addendum Number _____ through _____ of the Bidding Documents in this Bidder's Proposal. [If not applicable, mark the words "None"].

ACKNOWLEDGMENT BY BIDDER OF TERMS OF SUBMISSION OF THIS BIDDER'S PROPOSAL TO THE AGENCY:

In submitting this Bidder's Proposal and each of the Related Bidder's Documents the Bidder represents and warrants to the Agency that the Bidder has read the Notice Inviting Bids, the Instructions to Bidders, the unexecuted Project Contract (Contract Documents), and all other related documents (the "Bidding Documents") identified in the Instructions to Bidders and any Addendum, all of which are incorporated into this Bidder's Proposal by reference.

In exchange for the receipt and review of this Bidder's Proposal by the Agency, the Bidder agrees that if the Bidder is awarded the Project Contract by the Agency, the Bidder will execute the Project Contract, furnish and provide the items required under the Bidding Documents and the Project Contract (all within the time provided), and will accept as full payment the Bid Price for the performance of the work of the Project as set forth in the Bid Schedule as the "Bid Price".

The Bidder further agrees that the Bidder shall execute the Project Contract within ten (10) days from the date of issuance to it by the Agency of the Notice of Award of Project Contract and within the same time the Bidder shall furnish the appropriate performance and payment bonds to the Agency, along with the required certificates of insurance. If the Bidder is awarded the Project Contract and thereafter fails to execute it and provide the bonds and evidence of insurance within such ten (10) day period of time, the Bidder's Proposal Guaranty shall become the property of the Agency as liquidated damages for such failure or refusal; provided that if the Bidder shall execute the Contract and furnish the required bonds and certificates of insurance within the time aforesaid, Bidder's Proposal Guaranty shall be discharged and released.

BIDDER'S PROPOSAL GUARANTEE (BID GUARANTY):

Bid security (the "Bidder's Proposal Guaranty") in the principal amount required by the Bidding Documents is hereby submitted [check appropriate category] as: a Bidder's Proposal Guarantee; a cashier's check or certified check payable to the Agency. The Bidder acknowledges that a Bidder's Proposal which is secured by a personal check or a personal guaranty or secured by cash will be rejected by the Agency.

AFFIDAVIT OF NONCOLLUSION:

The Bidder hereby swears and deposes that he/she/it is the party making the foregoing bid, that the Bidder's Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation; that the bid is genuine and not collusive or sham; that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any other Bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid Price, or of that of any other Bidder, or to secure any advantage against the public body awarding the Project Contract of anyone interested in the proposed Project Contract; that all statements contained in this Bidder's Proposal are true; and, further, that the Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation partnership, company, association, organization, bid depository or to any member or agent thereof to effectuate a collusive or sham bid.

SUBCONTRACTOR LISTING:

In accordance with the California Public Contract Code, Division 2, Part 1, Chapter 4, Section 4100, and following, the subcontractors listed on the attached Subcontractor Information Sheet will perform the indicated work on the Project.

1. COMPANY INFORMATION SHEET

LEGAL NAME OF COMPANY: _____

TYPE OF BUSINESS (Check One):

- CORPORATION
- LIMITED LIABILITY COMPANY
- PARTNERSHIP
- JOINT VENTURE
- INDIVIDUAL
- INDIVIDUAL DOING BUSINESS UNDER A FIRM NAME
- OTHER _____

STATE OF INCORPORATION OR FORMATION:

PRINCIPALS/OFFICERS OF COMPANY (List All Principals and Officers, Including Joint Venture Partner, as well as investors/investment companies):

Name	Title
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

IDENTIFICATION OF PRINCIPAL(S)/OFFICER(S)/REPRESENTATIVE(S) OF COMPANY WHO IS(ARE) AUTHORIZED TO SIGN PROPOSALS AND RELATED DOCUMENTS:

The Company has authorized and hereby designates the following individual(s) to execute proposals and related documents:

_____	_____
Type or Print Name	Title
_____	_____
Type or Print Name	Title

SUBCONTRACTOR INFORMATION SHEET

LEGAL NAME OF SUBCONTRACTOR: _____

SUBCONTRACTOR LICENSE NUMBER: _____

TYPE OF BUSINESS (Check One):

- CORPORATION
STATE OF INCORPORATION _____
- PARTNERSHIP
- JOINT VENTURE
- INDIVIDUAL
- INDIVIDUAL DOING BUSINESS UNDER A FIRM NAME
- OTHER _____

PRINCIPALS/OFFICERS/REPRESENTATIVE(S) OF SUBCONTRACTOR (List All Principals and Officers, Including Joint Venture Partner):

Name	Title
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

IDENTIFICATION OF PRINCIPAL(S)/OFFICER(S)/REPRESENTATIVE(S) OF BIDDER WHO IS(ARE) AUTHORIZED TO SIGN THIS BIDDER'S PROPOSAL AND EACH OF THE RELATED BIDDER'S DOCUMENTS:

The Bidder hereby designates the following individual(s) to execute this Bidder's Proposal, and each of the Related Bidder's Documents, on behalf of the Bidder:

_____	_____
Type or Print Name	Title
_____	_____
Type or Print Name	Title

LIST OF RELATED BIDDER'S DOCUMENTS ATTACHED TO THIS BIDDER'S PROPOSAL:

- Bidder's Proposal Guaranty
- Bid Schedule/Bid Price Detail
- Bidder's Statement on Previous Contracts Subject to EEO Clause
- Certification of Nonsegregated of Facilities
- Disadvantaged Business Enterprises Contract Goals Certification
- Certification Regarding No Suspension and Debarment
- Certification Relating to Campaign Contributions
- Certification and Listing of Subcontractor
- Buy American Certificate
- Bidder's Statement of Experience (with required attachments)
- Other Certificates or Statements Required By Addendum to Instruction to Bidders (if any)

BIDDER INFORMATION, CERTIFICATION AND SIGNATURE:

Firm Name _____

Address

Telephone (____) _____ Fax (____) _____

Bidder's Contractor License Number _____

Bidder's Contractor License Expiration Date _____

Bidder's Contractor License Classification _____

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENTS SET FORTH IN THIS BIDDER'S PROPOSAL AND IN EACH OF THE RELATED BIDDER'S DOCUMENTS, ARE TRUE.

NAME OF BIDDER

[TYPE OR PRINT NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/
REPRESENTATIVE OF BIDDER:

[SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE]

[PRINT OR TYPE NAME OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE]

[INDICATE TITLE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE]

Date: _____

[CORPORATE SEAL, IF APPLICABLE]

-- AND --

[NOTARY ACKNOWLEDGMENT OF SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE OF BIDDER WHO HAS
EXECUTED THIS PAGE OF THE BIDDER'S PROPOSAL]

C. RELATED BIDDER'S DOCUMENTS

1. BIDDER'S PROPOSAL GUARANTY (BID BOND)

FORM OF BID BOND

(Referred To As Bidder's Proposal Guaranty In Instructions To Bidders)

KNOW ALL PERSONS BY THESE PRESENTS, that we _____,
as CONTRACTOR/PRINCIPAL and _____, as
Surety, an admitted Surety insurer pursuant to Code of Civil Procedure, Section 995.120, legally
doing business in California at _____, are
held and firmly bound unto the **SAN BERNARDINO INTERNATIONAL AIRPORT AUTHORITY**,
hereinafter called the AGENCY, in the penal sum of TEN PERCENT (10%) OF THE TOTAL
AMOUNT OF THE BID of the CONTRACTOR/PRINCIPAL submitted to the said AGENCY for
the work described below for the payment of which sum is lawful money of the United States,
well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the CONTRACTOR
/PRINCIPAL has submitted the accompanying bid dated _____, 20____, for construction
of the project known as:

TAXIWAY SHOULDER IMPROVEMENT PROJECT

NOW THEREFORE, the CONTRACTOR/PRINCIPAL shall not withdraw said bid within **one hundred twenty (120)** consecutive calendar days after said opening; and the CONTRACTOR/PRINCIPAL, when given Notice of Award, shall within ten (10) calendar days after the prescribed forms are presented to him for signature, return executed copies of the Agreement to the AGENCY, in accordance with the bid as accepted and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract and for the payment for labor and materials used for the performance of the contract or in the event of the withdrawal of said bid within the period specified or the failure to enter into such contract and give such bonds within the time specified, the CONTRACTOR/PRINCIPAL shall pay the AGENCY the difference between the amount specified in said bid and the amount for which the AGENCY may procure the required work and/or supplies of the latter amount be in excess of the former, together with all costs incurred by the AGENCY in again calling for bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or the specifications.

In the event suit is brought upon this bond by the AGENCY and judgment is recovered, CONTRACTOR/PRINCIPAL and Surety shall pay all costs incurred by the AGENCY in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF the above-bound parties have executed this instrument under their several seals this _____ day of _____, 20____ the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

CONTRACTOR/PRINCIPAL

By: (Signature)

Print Name

(Corporate Seal)

SURETY

By: (Signature)

Print Name

Title

Address

Telephone No.

(Attach Attorney-in-Fact Certificate)

(Attach All-Purpose Notary Acknowledgment for Surety Signature)

TAXIWAY SHOULDER IMPROVEMENT PROJECT

2. BIDDER'S BID SCHEDULE/BID PRICE DETAIL

BASE BID

Item #	Pay Item	Unit	Estimated Quantity	Unit Price	Amount
1.	Mobilization and Demobilization (5% Max)	LS	1	\$ _____	\$ _____
2.	Contractor's Quality Control Program	LS	1	\$ _____	\$ _____
3.	Stormwater Pollution Prevention Control Plan	LS	1	\$ _____	\$ _____
4.	Construction Safety and Phasing Plan	LS	1	\$ _____	\$ _____
5.	Removal and Restoration of Taxiway Edge Lights	LS	1	\$ _____	\$ _____
6.	Demolition and Removal of Asphalt Pavements (3" to 5" Thick)	SY	29,000	\$ _____	\$ _____
7.	Unclassified Earthwork	CY	20,000	\$ _____	\$ _____
8.	12-Inch Subgrade Scarify and Recompact	SY	38,000	\$ _____	\$ _____
9.	8-Inch Thick Crushed Aggregate Base Course	SY	38,000	\$ _____	\$ _____
10.	4-Inch Thick Asphalt Mix Shoulder Pavements (P-403)	TON	8,800	\$ _____	\$ _____
11.	Restore Airfield Pavement Markings	SF	49,000	\$ _____	\$ _____

SAN BERNARDINO INTERNATIONAL AIRPORT

**TAXIWAY SHOULDER
IMPROVEMENT PROJECT**

Item #	Pay Item	Unit	Estimated Quantity	Unit Price	Amount
12.	Hydroseeding	SY	30,000	\$ _____	\$ _____

TOTAL BASE BID CONSTRUCTION \$ _____

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

3. EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

During the performance of the Project Contract, if awarded to the Bidder, the Bidder as the prospective Contractor certifies as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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 will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination certification.

(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, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising each said labor union or workers' representatives of the Contractor's commitments under this certification, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) 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.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with this nondiscrimination certification or with any of said rules, regulations, or orders, the Agency may cancel, terminate, or suspend, in whole or in part, the Project Contract and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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 provision will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Agency may direct as a means of enforcing such provision, including sanction 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 by the Agency the

Contractor may request the Agency to enter into such litigation to protect the interests of the Agency.

Certification under penalty of perjury: The information above is true and complete to the best of my knowledge and belief.

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

NOTE: The penalty for making false statements in this certification is prescribed in 18 U.S.C. 1001.

4. CERTIFICATION OF NONSEGREGATED FACILITIES

The federally-assisted construction contractor certifies that she or he does not maintain or provide, for his employees, any segregated facilities at any of his establishments and that she or he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally-assisted construction contractor certifies that she or he will not maintain or provide, for his employees, segregated facilities at any of his establishments and that she or he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The federally-assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The federally-assisted construction contractor agrees that (except where she or he has obtained identical certifications from proposed subcontractors for specific time periods) she or he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that she or he will retain such certifications in his files.

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

5. DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE NEUTRAL PARTICIPATION PROVISIONS (49 CFR 26)

Disadvantaged Business Enterprises (DBE)/Small Business Enterprise Program (SBE)

1. Contractor Responsibilities: The Contractor shall agree to the below stated policy and Disadvantaged Business Enterprises Obligation and further agrees to insert the following clauses in any subcontracts.

a. Policy. It is the policy of the San Bernardino International Airport Authority ("SBIAA") to ensure that DBEs, as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in DOT- assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-FAA-AIP assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-FAA-AIP assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-FAA-AIP assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

b. DBE Obligation

The contractor, sub recipient 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 DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, 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-responsive.

2. DBE Goal - SBIAA has not established a DBE contract goal for the utilization of firms owned and controlled by socially and economically disadvantaged persons for this project. However, SBIAA has established a contract goal of **7.3%** for the utilization of Small Business Enterprises (SBEs). Bidders must meet the goal or demonstrate that they made good faith efforts to meet the goal. Bidders who do not meet the SBE goal or demonstrate that good faith efforts were made will be considered non-responsive.

3. SBE Definition – A Small Business Enterprise (SBE) is a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121). An SBE firm must be at least 51% owned by a U.S. citizen(s) or lawfully admitted resident(s) whose personal net worth does not exceed \$1.32 million, excluding the owner's equity in the applicant business and his/her primary residence. When evaluating the size of a firm, all affiliates of the applicant firm are considered.

The SBA size standards may be found at:

www.sbaonline.sba.gov/contractingopportunities/officials/size/table/index.html.

Personal Net Worth is defined as: The net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating SBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

4. Eligibility of SBEs – Any firm currently certified as a DBE by the California Unified Certification Program (CUCP) automatically qualifies as an SBE, as by definition such firms meet the requirements for qualifying as a small business. Any firm not currently certified as a DBE by the CUCP and wishing to qualify as an SBE is invited to apply for certification by completing the SBE verification application. The application must be completed in its entirety and be accompanied by all required attachments. Firms must be verified as SBE firms prior to being listed as an SBE participant for purposes of satisfying the SBE goal.

Firms who would like to apply for SBE certification/verification may obtain an application and instructions by calling Myriam Beltran at (909) 382-4100, ext. 153 or by emailing her at mibeltran@sbdairport.com. If a bidder elects to utilize a firm who may be eligible but is not already certified as a DBE or verified as an SBE, it is the bidder's responsibility to insure that the firm is certified or verified as an SBE prior to bid opening. Only firms who are certified or verified as SBE firms prior to bid opening will count towards SBE participation.

5. SBE Directory

To find eligible SBE firms, bidders may use the DBE Directory located at http://www.dot.ca.gov/hq/bep/find_certified.htm. All firms listed in the DBE Directory also qualify as SBE firms. If a bidder elects to utilize a firm who may be eligible but is not already certified as a DBE or verified as an SBE, it is the bidder's responsibility to insure that the firm is certified or verified as an SBE prior to bid opening. Only firms who are certified or verified as SBE firms prior to bid opening will count towards SBE participation.

6. Bid Requirements

Required Information - Bidders are required to submit the following information regarding participation by SBEs:

- a. The names and addresses of SBE firms that will participate in the contract.
- b. A description of the work that each SBE will perform.
- c. The dollar amount of participation by each named SBE firm and the dollar amount to be counted towards the goal. (*Note: Regular suppliers of goods/services count at 60% of the value of the goods or services purchased. Subcontractors and manufacturers count at 100% of the contract value. Supply/service brokers count at the value of reasonable commissions charged).

- d. Evidence that the listed firms have been certified/verified as either a DBE by the CUCP or an SBE by SBIAA (i.e. verification letter or listing from the CUCP Directory).

- 7. Good Faith Efforts - Bidders who do not demonstrate that they will meet the goal by listing SBE subcontractors/ suppliers with commitments totaling a minimum of 12.5% of the bid amount must submit SBE Good Faith Efforts documentation. Good Faith Efforts will be evaluated in accordance with the San Bernardino International Airport Authority's Small Business Program which references 49 CFR part 26 Appendix A. Please see 49 CFR part 26 for further information regarding good faith efforts. 49 CFR part 26 is available at the ecf website:

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl.

- 8. Reporting Requirements – The contractor shall provide all information and reports required by the Project Manager and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Project Manager to be pertinent to ascertain compliance with the regulations or directives. Monthly reports of payments to SBE firms will be required for the term of the agreement in a format specified by SBIAA.

- 9. SBE Termination/Substitution – The following requirements will apply to the successful bidder with regard to the termination or substitution of listed SBE firms:
 - a. An SBE subcontractor listed by the bidder, or a previously approved substituted SBE, may not be terminated or substituted without the prior written consent of SBIAA.
 - b. SBIAA will only provide such written consent if it has been determined that the prime contractor has good cause to terminate the SBE firm.
 - c. Before seeking approval to terminate and/or substitute an SBE, Contractor will give notice in writing to the SBE subcontractor, with a copy to SBIAA, of its intent to request to terminate and/or substitute, and the reason for the request. Contractor must give the SBE five business days to respond to contractor's notice and to advise SBIAA and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why SBIAA should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), SBIAA may approve a response period shorter than five business days.

Contractor will be required to make good faith efforts, as determined by SBIAA, to replace an SBE that is terminated or has otherwise failed to complete its work on a contract with another certified/verified SBE, to the extent needed to meet the contract goal.

(CONTRACTOR)

**SAN BERNARDINO INTERNATIONAL
AIRPORT AUTHORITY**
(AGENCY)

By: _____

By: _____
Michael Burrows

Official Title

Date: _____

Address

Official Seal

Acting Executive Director

Official Title

Date: _____

ATTEST:

Jennifer Farris
Secretary of the Commission

Approved as to form and legal content:

Mirau, Edwards, Cannon, Lewin & Took
A Professional Corporation

By: _____
Michael Lewin

6. SUBCONTRACTOR BIDDERS LIST

All bidding contractors are required to provide the following information for all subcontractors, who provided a bid, quote, or contacted your company in reference to this project. The information requested on this form must also be provided for the bidding contractor. Please use one form for each company. The Authority will use this information to maintain and update a "Bidders List" to assist in establishing an Overall Annual DBE Goal. *The Bidders List content will not be considered in evaluating the bid or determining award of any contract.*

Subcontractor Name: _____ **Phone:** _____

Address: _____ **Fax:** _____

Contact Person: _____ **No. of years in business** _____

Subcontractor License Number: _____

Is the firm currently certified as a DBE under 49 CFR Part 26? **YES** **NO**

Type of work/services/materials provided by firm? _____

What was your firm's Gross Annual receipts for last year?

Less than \$1 Million

Less than \$5 Million

Less than \$10 Million

Less than \$15 Million

More than \$15 Million

**7. CERTIFICATE REGARDING NO SUSPENSION AND DEBARMENT
FROM BIDDING ON PUBLIC WORKS CONTRACTS**

**REQUIREMENTS FOR PUBLIC WORKS CONTRACTS UNDER THE PUBLIC
CONTRACTS CODE AND FOR ALL CONTRACTS OVER \$25,000 (49 CFR PART 29)**

The Bidder hereby certifies pursuant to Public Contracts Code Section 6109 by submission of the Bidder's Proposal that the Bidder, and to the best knowledge and belief of the Bidder, each of its subcontractors, has/have not been declared ineligible to bid or work on, or be awarded, a contract to perform on a public works project pursuant to Labor Code Section 1777.1 or 1777.7

The Bidder hereby further certifies, by submission of the Bidder's Proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

The Bidder further agrees by submitting the Bidder's Proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts.

The Bidder acknowledges that under applicable State law any contract on a public works project entered into with a debarred subcontractor is void as matter of law.

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

8. TRADE RESTRICTION CERTIFICATE

By submission of its Bidder's Proposal the Bidder certifies that it:

- a. Is not owned or controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. Has not knowingly entered into and will not enter into any contract or subcontract for the Project with a person that is a citizen or a national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. Has not procured any product nor subcontracted for the supply of nor will it procure or subcontract for the supply of any product for use on the Project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, the Project Contract shall not be awarded to a Bidder or any subcontractor who is unable to certify to the above. If the Bidder knowingly procures or subcontracts for the supply of any product or service of a foreign country on the said list for use on the Project then in addition to all rights and remedies available to the Agency against the Bidder, the Federal Aviation Administration may direct, through the Agency, cancellation of the Project Contract at no cost to the Federal Aviation Administration or the Agency.

Further, the Bidder agrees that, if awarded the Project Contract, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The Bidder may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The Bidder shall provide immediate written notice to the Agency if the Bidder learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide immediate written notice to the Bidder, if at any time it learns that its certification was erroneous by reason of changed circumstances.

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

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 Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This Trade Restrictions Certificate 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, United States Code, Section 1001.

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

9. CLEAN AIR AND WATER POLLUTION CONTROL CERTIFICATION

The Bidder if the Project Contract is awarded to the Bidder, the Bidder as the Contractor certifies, as follows:

- a. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- b. That it will comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specific in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
- c. That, as a condition for the award of the Project Contract, the Contractor will notify the Agency of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
- d. That it will include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned clauses, criteria and requirements.

Certification under penalty of perjury: The information above is true and complete to the best of my knowledge and belief.

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

11. CERTIFICATION RELATING TO CAMPAIGN CONTRIBUTIONS

NAME OF BIDDER _____

The Bidder hereby certifies that based upon due and diligent inquiry, campaign contributions for candidates for elected office have been given (or not given, as applicable) by the Bidder and/or by the principals, officers or representatives of the Bidder, during the twelve (12) months preceding the date of submission of the Bidder's Proposal to the Agency to the following elected officials who serve on the governing board of the Agency:

NAME OF AGENCY BOARD MEMBER	AMOUNT OF CAMPAIGN CONTRIBUTION
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

[IF NO CAMPAIGN CONTRIBUTION HAS BEEN MADE TO A BOARD MEMBER DURING THE PAST YEAR MARK THE WORD "NONE", AS APPLICABLE]

NAME OF BIDDER _____
[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER _____
[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date: _____

12. NON-COLLUSION AFFIDAVIT

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

FOR

TAXIWAY SHOULDER IMPROVEMENT PROJECT

State of California)
) S.S.
County of _____)

_____, being first duly sworn, deposes and says that he or she is

(sole Agency, a partner, president, secretary, etc.)

of

the Bidder making the foregoing Bidder's Proposal, that the Bidder's Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation; that the Bidder's Proposal is genuine and not collusive or sham; that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham Bidder's Proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham Bidder's Proposal, or that anyone shall refrain from bidding; that the Bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid Price, or of that of any other Bidder, or to secure any advantage against the Agency awarding the Project Contract or anyone interested in the proposed Project Contract; that all statements contained in the Bidder's Proposal are true; and, further, that the Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham Bidder's Proposal.

SIGNED:

TITLE

WARNING

BIDDER'S PROPOSALS WILL NOT BE CONSIDERED UNLESS THIS AFFIDAVIT IS FULLY EXECUTED WITH APPROPRIATE NOTARIAL ACKNOWLEDGEMENTS OF EXECUTION BY THE BIDDER.

13. BUY AMERICAN CERTIFICATION
(Title 49 U.S.C. Section 50101)

As a condition of bid responsiveness, the bidder must certify its compliance with the Buy American preferences established under Title 49 U.S.C. Section 50101 as follows:

U.S.C. Section 50101 – Buying goods produced in the United States

- (a) Preference. – The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter 1 of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.
- (b) Waiver. – The Secretary may waive subsection (a) of this section if the Secretary finds that –
 - (1) Applying subsection (a) would be inconsistent with the public interest;
 - (2) The steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;
 - (3) When procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter 1 of chapter 471 (except section 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title –
 - (A) The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and
 - (B) Final assembly of the facility or equipment has occurred in the United States; or
 - (4) Including domestic material will increase the cost of the overall project by more than 25 percent.
- (c) Labor Costs. – In this section, labor costs involved in final assembly are not included in calculating the cost of components.

* * * * *

The Bidder must select the appropriate certification for its proposal from one of the following statements:

- The bidder hereby certifies that they will comply with Title 49 U.S.C Section 50101 by only installing steel and manufactured products produced in the United States of America.**
- The bidder hereby certifies that they cannot fully comply with the Buy American preferences of Title 49 U.S.C. Section 50101(a) and therefore requests a waiver per Title 49 U.S.C Section 50101(b) for the items listed below.**

Component/ Item	Country of Origin	Total Component Cost in Project	Total All Components in Project

NOTES:

- 1) All requested information must be submitted for each individual; product/item waiver request.
- 2) All steel used in this project must be produced in the USA. Regional waivers will not be issued for steel not produced in the USA.
- 3) All products, equipment, things requiring assembly must be assembled in the USA. Regional waivers will not be issued for products, equipment, etc. not final assembled in the USA.
- 4) The Owner will submit any requested waiver by the apparent low bidder to the FAA for a determination of AIP eligibility. Bidders are hereby advised there is no implied or expressed guarantee that a requested waiver will be approved by the Owner or the Federal Aviation Administration.

Bidder's Firm Name

Date

14. CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The bidder must complete the following two certification statements. The bidder must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The bidder agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The bidder represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

- 2) The bidder represents that it is () is not () is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an bidder responds in the affirmative to either of the above representations, the bidder is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The bidder therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

Bidder's Firm Name

Date

15. BIDDER'S STATEMENT OF EXPERIENCE*

A. Each Bidder is required to list, in addition to its name and address, the type of work in which it is qualified and its work experience and fill out the attached Company Information Sheet.

Bidder: _____

Name	Type of Work	Years of Experience
-------------	---------------------	----------------------------

If Bidder, as presently organized, has been engaged in business for less than 5 years in the preceding paragraph, it shall list the work experience for principals and other key personnel.

	<u>Name</u>	<u>Type of Work</u>	<u>Years of Experience</u>	<u>Capacity (Foreman, etc.)</u>
Bidder's Personnel (1)	_____	_____	_____	_____
Bidder's Personnel (2)	_____	_____	_____	_____
Bidder's Personnel (3)	_____	_____	_____	_____
Bidder's Personnel (4)	_____	_____	_____	_____
Bidder's Personnel (5)	_____	_____	_____	_____

B. Each Bidder is required to furnish work record for the Bidder for other public works contracts performed by the Bidder within the past five (5) years. List the most current public works contracts first, and if it has not engaged in any public works contracts within such time period, mark the work "NONE", below:

	<u>Contract Amount</u>	<u>Type of Work</u>	<u>Completed</u>	<u>Public Agency Officer Name & Address</u>	<u>Public Agency Officer In Charge Of Project</u>	<u>Phone # Of Person In Charge</u>
(1)	_____	_____	_____	_____	_____	_____
(2)	_____	_____	_____	_____	_____	_____
(3)	_____	_____	_____	_____	_____	_____
(4)	_____	_____	_____	_____	_____	_____
(5)	_____	_____	_____	_____	_____	_____

**SAN BERNARDINO INTERNATIONAL AIRPORT
ISSUE FOR BID**

**TAXIWAY SHOULDER
IMPROVEMENT PROJECT**

Use reverse side or add separate listing if necessary:

In addition to the Bidders qualification, each Bidder shall respond to the requirements listed below: Use reverse side or add separate listing as necessary.

The TAXIWAY SHOULDER IMPROVEMENT Project work at the San Bernardino International Airport will entail the construction of taxiway shoulder paving with associated civil improvements. The work shall be completed by an experienced Bidder with a minimum of 5 years recent experience in the construction of pavement repair projects similar in size. The Bidder shall provide a statement of qualifications containing the following along with the bid to be considered responsive:

1. Previous Project Descriptions with location and amount of taxiway pavement and/or taxiway shoulder paving.
2. Contract amount
3. Amount subcontracted
4. Construction start and end date
5. Change order amount
6. Minimum of five references

The Bidder shall provide the intended manufacturer of the following items with the bid:

1. N/A
2. N/A

C. Has Bidder been involved in litigation with a public agency on any public works project within the last five (5) years?

YES _____
NO _____

If "YES", please identify the public agency and the project:

D. To the best knowledge of the Bidder, has any subcontractor been involved in litigation with a public agency on any public works project within the last five (5) years?

YES _____
NO _____

If "YES", please identify the public agency and the project:

- E. Each Bidder is required to list all equipment owned or leased by the Bidder that will be available for use in undertaking the Project.

<u>Description of Equipment Item</u>	<u>Available Dates</u>
_____	_____
_____	_____
_____	_____
_____	_____

- F. Each Bidder is required to list key personnel employed by or principal of the Bidder who will be available to work on the Project.

<u>Name of Person</u>	<u>Available Dates</u>
_____	_____
_____	_____
_____	_____
_____	_____

- G. Bidder shall attach a statement or report of its financial resources and liabilities as of the last calendar year end or the end of the Bidder's last fiscal year certified by a public accountant. By submitting a Bidder's Proposal, the Bidder certifies that such statement or report of the Bidder's financial responsibility accurately reflects the Bidder's financial responsibility as of the date of submission of its Bidder's Proposal or attach a signed statement identifying material changes in the Bidder's financial responsibility, as set forth in the certified statement or report submitted. Said statement or report may be considered by the Agency in selecting the lowest responsible Bidder. The Agency shall exercise its best efforts to protect the confidentiality of any such business financial records provided to the Agency from disclosure as public records.

**SAN BERNARDINO INTERNATIONAL AIRPORT
ISSUE FOR BID**

**TAXIWAY SHOULDER
IMPROVEMENT PROJECT**

NAME OF BIDDER

[PRINT OR TYPE NAME OF BIDDER]

SIGNATURE OF AUTHORIZED
PRINCIPAL/OFFICER/REPRESENTATIVE
OF BIDDER

[SIGNATURE]

[PRINT OR TYPE NAME OF AUTHORIZED
INDIVIDUAL]

[INDICATE TITLE OF AUTHORIZED INDIVIDUAL]

Date:_____

**SAN BERNARDINO INTERNATIONAL AIRPORT
ISSUE FOR BID**

**TAXIWAY SHOULDER
IMPROVEMENT PROJECT**

D. CONTRACT DOCUMENTS**PROJECT CONTRACT**

THIS PROJECT CONTRACT (the "contract" or "Contract"), is made and entered into this ____ day of _____, 20____, by and between San Bernardino International Airport Authority (referred to herein as the "Owner" or the "Agency") and _____ (the "Contractor").

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

1. THE CONTRACT DOCUMENTS.

The complete contract is comprised of and includes: the Notice Inviting Bids, the Instructions to Bidders, the accepted Bidder's Proposal, the Bidding Schedule, this Contract, the Noncollusion Affidavit the Certification of Insurance Coverage, the Equal Employment Opportunity Certification, the Clean Air and Water Pollution Control Certification, DBE Contract Goals and Certifications, Certificate Regarding No Suspension and Debarment from Bidding on Public Works Contracts, Trade Restriction Certificate, Certificate and Designation of Subcontractors, Certification Relating to Campaign Contributions, the Performance Bond, the Labor and Material Bond, the General Conditions, the Special Conditions, the Detail Specifications, any Addendums, the complete plans and provisions, regulations, ordinances, codes, and laws incorporated therein or herein by reference or otherwise applicable to the Project.

All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract are hereinafter referred to collectively as the Contract Documents.

2. THE WORK.

Contractor agrees to furnish all tools, apparatus, facilities, equipment, labor and materials (except that specifically mentioned as being furnished by others) necessary to perform and complete the work in a good and workerlike manner as called for, and in the manner designated in, and in strict conformity with the Plans, Detail Specifications, and other Contract Documents which are identified by the signatures of the parties to this Contract and are, collectively, entitled:

**San Bernardino International Airport
TAXIWAY SHOULDER IMPROVEMENT PROJECT**

3. CONTRACT PRICE.

The Agency agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the following compensation, to-wit: Amounts as determined by applying unit prices contained in the Contractor's Bid Schedule to the actual quantities used for the Project.

For the purpose of fixing the amount of bonds referred to in Paragraph 23 of the Instructions to Bidders, Page BD-23, it is estimated by both Parties that the total contract price based on the Contractor's Base Bid amount.

4. **DISPUTES PERTAINING TO PAYMENT FOR WORK.**

Should any dispute arise respecting the true value of any work done or any work omitted, or of any extra work which the Contractor may be required to do, or respecting the size of any payment to the Contractor during the performance of this Contract, the dispute shall be decided by Arbitration pursuant to Code of Civil Procedures 1281 ET SEQ., and the decision shall be subject to appellate review by the San Bernardino Superior Court. Under no condition shall there be a cessation of work by the Contractor during any such dispute. This article does not exclude recovery of damages by either party for delays.

5. **PAYMENT.**

Not later than the 20th day of each calendar month, the Contractor shall make a partial payment request to the Agency on the basis of an estimate approved by the Engineer of the work performed since the last partial payment request during the preceding month by the Contractor with ten percent (10%) of the amount of each such estimate retained by the Agency, until completion of the Project and the recordation of a Notice of Completion of all work covered by this Contract. The Agency shall make any partial payments provided for in this contract to the Contractor within 30 days of the Agency's receipt of an undisputed and properly executed partial payment request from the Contractor. The Agency shall pay the Contractor interest on the amount of any portion of a partial payment, excluding retention amounts, not made to the Contractor within 30 days of the Agency's receipt of an undisputed and properly executed partial payment request from the Contractor at the legal rate set forth in California Code of Civil Procedure Section 685.010. Upon receipt of a partial payment request from the Contractor, the Agency shall review the partial payment request for the purpose of determining whether or not the partial payment request is a proper partial payment request. Any partial payment request determined by the Agency not to be a proper partial payment request suitable for payment shall be returned to the Contractor by the Agency within 7 days of the Agency's receipt of such partial payment request. A partial payment request returned to the Contractor by the Agency under the provisions of this section shall be accompanied by a written document setting forth the reason(s) why the partial payment request is not proper. The number of days for the Agency to make a certain partial payment provided for in this Contract, without incurring interest pursuant to this section, shall be reduced by the number of days by which the Agency exceeds the 7 day return period for such partial payment request, if determined to be improper, as set forth in this section. For the purposes of this section, a "partial payment" means all payments due to the Contractor under this contract, exclusive of that portion of the final payment designated as retention earnings. Also, for the purposes of this section, a partial payment request shall be considered properly executed by the Agency, if funds are available to pay the partial payment request and payment is not delayed due to an audit inquiry by the Agency's financial officer. The Agency will release Contractor's retention earnings within 45 days after recordation of Notice of Completion, as defined in California Civil Code Section 3093. Recordation of a Notice of Completion for the Project by the Agency shall constitute the Agency's acceptance of the Project work.

6. TIME FOR COMPLETION.

For Base Bid only, all work under this contract shall be completed, in accordance with the construction phasing plans, within a period of **120 calendar days** from the date of the Contractor's receipt of Notice-to-Proceed from the Agency.

The work shall be considered substantially complete within **90 calendar-day's** time when the project is 100% complete for commissioning of the taxiway asphalt concrete shoulder replacement, and all the work associated with the project improvements and ready for operations.

7. EXTENSION OF TIME.

If the Contractor is delayed by acts of negligence of the Agency, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts, fire, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the Agency, or by any justifiable cause which the Engineer shall authorize, then the Contractor shall make out a written claim addressed to the Agency setting forth the reason for the delay and the extension of the time requested and forward a copy of the claim to the Engineer for approval. The Engineer will evaluate the claim and if the claim is justifiable, will request the Agency's approval. No such extension will be allowed unless written claim therefore has been made within 3 days after the delay became apparent.

This article does not exclude the recovery of damages for delay by either party under other provisions in the Contract Documents and Contractor specifically acknowledges that he has read and agrees to the provisions of Section 25 in the Special Requirements (page SR-9) relating to liquidated damages.

8. LABOR PROVISIONS.

a. Minimum Wages.

(1) All laborers and mechanics employed or working upon the site of the Project 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 regulations issued 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 equivalents 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 laborers or mechanics, subject to the provisions of subparagraph a.(4) below; 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 paragraph d. of this clause. 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 a.(2) 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 Project in a prominent and accessible place where it can easily be seen by the workers.

(2)

(i) Any class of laborers or mechanics 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 Agency shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

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

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

(ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Agency 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 Agency to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 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 Agency or will notify the Agency within the 30-day period that additional time is necessary.

(iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives and the Agency do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the Agency shall refer the questions, including the views of all interested parties and the recommendation of the Agency, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Agency or will notify the Agency within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (2)(ii) or (iii) 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.

(3) 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.

(4) 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.

b. Withholding. The Federal Aviation Administration ("FAA") or the Agency 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 Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same 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 Project, all or part of the wages required by the contract, the FAA may after written notice to the Contractor, Agency, or applicant 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.

c. Payrolls and Basic Records.

(1) 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 Project. 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 section 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 paragraph a(4) of this clause 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 which 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. If the Contractor employs 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.

(2)

(i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Agency for transmission to the FAA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph c(1) above. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(ii) 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:

(A) That the payroll for the payroll period contains the information required to be maintained under paragraph c(1) above and that such information is correct and complete;

(B) 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 29 CFR Part 3;

(C) 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.

(iii) 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 c.(2)(b) of this section.

(iv) 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.

(3) The Contractor or subcontractor shall make the records required under paragraph c(1) of this section available for inspection, copying or transcription by authorized representatives of the Agency, the FAA 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 FAA or Department of Labor may, after written notice to the Contractor or Agency 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 of the Contractor or subcontractor pursuant to 29 CFR 5.12.

d. Apprentices and Trainees.

(1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Project 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 of 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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, 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.

(2) 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 Project 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 which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who 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 Project 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.

(3) 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.

e. Compliance With Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference into this contract.

f. Subcontracts. The Contractor and each subcontractor shall insert in any subcontracts the clauses contained in paragraphs a. through j. of this contract and such other clauses as the FAA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

g. Contract Termination: Debarment. A breach of the contract clauses in paragraphs a. through j. of this Section 8 and a. through e. of Section 9 below are grounds for termination of this contract, and for the debarment of the Contractor or subcontractor as provided in 29 CFR 5.12.

h. 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.

i. Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes provision 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 subcontracts) and the Agency, the U.S. Department of Labor, or the employees or their representatives.

j. Certification of Eligibility.

(1) 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).

(2) 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).

(3) The penalty for making false statements or certifications in the making of this contract is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

9. CONTRACT WORK HOURS AND SAFETY STANDARDS REQUIREMENTS.

As used in the following provision, the term "laborers" and "mechanics" include watchmen and guards.

a. Overtime Requirements. Neither the Contractor nor any subcontractor contracting for any part of the Project which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic 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, whichever is greater.

b. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph a. above, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the Agency 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 a. above, in the sum of \$10 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 a. above.

c. Withholding for Unpaid Wages and Liquidated Damages. The FAA or the Agency 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 monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same 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 b. above.

d. Working conditions. Neither the Contractor nor any subcontractor may require any laborer or mechanic employed in the performance of any contract to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous to his health or safety as determined under construction safety and health standards (29 CFR Part 1926) issued by the Department of Labor.

e. Subcontracts. The Contractor and any subcontractor shall insert in any subcontracts the clauses set forth in paragraphs a. through d. and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The

Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs a. through d.

10. VETERAN'S PREFERENCE.

In the employment of labor by the Contractor or its subcontractors (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 515(c)(1) and (2) of the Airport and Airway Improvement Act of 1982. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

11. COMPLIANCE WITH REGULATIONS.

The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (herein, 'DOT') Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

12. NONDISCRIMINATION.

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

13. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PROVISIONS.

The Contractor, subrecipient 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 DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

The Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Contractor receives from Agency. The Contractor agrees further to return retainage payments to each subcontractor within 30 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 Agency. This clause applies to both DBE and non-DBE subcontractors.

14. CIVIL RIGHTS.

The Contractor assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any

activity conducted with or benefiting from Federal assistance. This Provision binds the Contractor from the bid solicitation period through the completion of the contract. This provision shall be inserted in all subcontracts, subleases and other agreements at all tiers.

15. 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 shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

16. INFORMATION AND REPORTS.

The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Agency or the FAA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Agency or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

17. SANCTIONS FOR NONCOMPLIANCE.

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Agency shall impose such contract sanctions as it or the FAA may determine to be appropriate, including but not limited to:

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

18. ACCESS TO RECORDS AND REPORTS.

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Agency, the Federal Aviation Administration, the Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract or the Project for the purposes of making an audit, examination, excerpts, and transcriptions. The Contractor agrees to maintain all books, records, and reports required under this contract for a period not less than 3 years after the Agency makes final payment and all other pending matters are closed.

19. RIGHTS IN INVENTIONS.

All rights to inventions and materials generated under this contract are subject to regulations issued by the FAA and the Agency. Information regarding these rights is available from the FAA and the Agency.

20. BREACH OF CONTRACT TERMS.

Any violation or breach of terms of this Contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the Agency under this Contract. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

21. TERMINATION OF CONTRACT BY AGENCY

a. The Agency may, by written notice, terminate this Contract in whole or in part at any time, either for the Agency's convenience or because of the Contractor's failure to fulfill its contract obligations. Upon receipt of such notice, services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Contract, whether completed or in process, delivered to the Agency.

b. If the termination is for the convenience of the Agency, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

c. If the termination is due to failure to fulfill the Contractor's obligations, the Agency may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the Agency for any additional cost occasioned to the Agency thereby.

d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Agency. In such event, adjustment in the contract price shall be made as provided in paragraph 2 of this clause.

e. The rights and remedies of the Agency provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

22. INCORPORATION OF PROVISIONS.

The Contractor shall include the provisions of this contract in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations of directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Agency or the FAA may direct 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 supplier as a result of such direction, the Contractor may request the Agency to enter into such litigation to protect the interests of the Agency and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

23. CONTRACTOR CLAIMS OF \$375,000 OR LESS.

Claims by the Contractor relating to the Project for (a) a time extension, (b) money or damages arising from work done by, or on behalf of, the Contractor on the Project for which payment is not expressly provided for or to which the Contractor is not otherwise entitled, or (c) an amount that is disputed by the Agency, with a value of \$375,000 or less, are subject to the claims procedures set forth in California Public Contract Code Sections 20104, et seq., except as otherwise provided in this Contract and the incorporated documents, conditions and specifications. A copy of California Public Contract Code Sections 20104 through 20104.6 is attached to this Contract.

24. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES.

a. No Federal appropriated funds shall be paid, by or on behalf of the Contractor or its subcontractors, 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 the making of any Federal grant or the amendment or modification of any Federal grant.

b. If any funds other than Federal appropriated funds have been paid or will be paid by the Contractor or its subcontractors to any person for influencing or attempting to influence an officer or employee of the Agency, any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

25. AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 - GENERAL CIVIL RIGHTS PROVISIONS.

The Contractor assures that it and its subcontractors will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

26. ASSIGNMENT OF CERTAIN RIGHTS TO THE AGENCY.

In entering into this Contract or a subcontract to supply goods, services, or materials pursuant to this Contract, the Contractor and/or subcontractor offers and agrees to assign to the Agency all rights, title, and interest in and to all causes of action it may

have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Contract or the subcontract. This assignment shall be made and become effective at the time the Agency tenders final payment to the Contractor, without further acknowledgement by the parties.

27. ENERGY CONSERVATION REQUIREMENTS

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163)

IN WITNESS WHEREOF, three identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the day and year first herein written.

AGENCY: San Bernardino International Airport Authority (First Party)

By: _____
(Authorized Representative)

(Official Title)

Contractor: _____
(Second Party)

By: _____
(Authorized Representative)

(Official Title)

Bond Number _____

Exhibit "A"
INSURANCE REQUIREMENTS

INSURANCE

The Contractor shall maintain insurance as set forth in this Contract, throughout the performance of work set forth in the Contract Documents. The Contractor shall remain liable to the Authority pursuant to the provisions of this Contract to the extent the Contractor is not covered by applicable insurance for all losses and damages incurred by the Authority that are caused directly or indirectly through the actions or inactions, willful misconduct or negligence of the Contractor in the performance of duties incurred by the Contractor pursuant to this Contract.

The Authority shall be named as an additional insured on all insurance policies as required to be maintained by the Contractor pursuant to this Contract.

The Contractor shall maintain insurance policies issued by an insurance company or companies authorized to do business in the State of California and that maintain during the term of the policy a "General Policyholders Rating" of at least A(v), as set forth in the most current edition of "Bests Insurance Guide, as follows:

(1) Automobile Insurance. The Contractor and each of its subcontractors shall maintain comprehensive automobile liability insurance of not less than \$100,000.00 combined single limit per occurrence for each vehicle leased or owned by the Contractor or its subcontractors and used in performing work under this Contract.

(2) Worker's Compensation Insurance. The Contractor and each of its subcontractors shall maintain worker's compensation insurance coverage in accordance with California workers' compensation laws for all workers under the Contractor's and/or subcontractor's employment performing work under this Contract.

(3) General Liability Insurance. Contractor shall obtain and keep in force a comprehensive general liability policy of insurance with coverage protecting the Authority as an additional insured against claims for bodily injury, personal injury and property loss or damage based upon, involving or arising from the performance of this Contract. Such insurance shall be on a occurrence basis providing single limit coverage in an amount not less than Five Million Dollars (\$5,000,000.00) in the event of bodily injury and death to any number of persons per occurrence. The policy shall not contain any intra-insured exclusions as between insured persons and organizations, but shall include coverage for liability assured under this Contract as an "insured contract" for the performance of the indemnity obligations of Contractor to the Authority. The limits or exclusions from coverage of such insurance shall not, however, limit the liability of the Contractor nor relieve Contractor of any other obligation under this Contract. All insurance to be carried by Contractor shall be primary to and not contributing to any single insurance carried by the Authority whose insurance shall be considered excess insurance only.

Concurrent with the execution of the Contract and prior to the commencement of any work by the Contractor, the Contractor shall deliver to the Authority copies of policies or certificates evidencing the existence of the insurance coverage required herein, which coverage shall remain in force and effect continuously throughout the performance of work set forth in the Contract Documents. Each policy of insurance that Contractor purchases in satisfaction of the insurance requirements of this Contract shall name the Authority as an additional insured and

shall provide that the policy may not be cancelled, terminated or modified, except upon thirty (30) days prior written notice to the Authority.

FORM OF PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: That

WHEREAS, _____,
State of California, on _____, 20_____, awarded

hereinafter designated as the "Principal", the contract to

**San Bernardino International Airport
TAXIWAY SHOULDER IMPROVEMENT PROJECT**

NOW THEREFORE, we the Principal, and _____
_____ as Surety, are held and firmly
bound unto _____, hereinafter called the
_____, in the penal sum of _____
_____ Dollars (\$_____)

lawful money of the United States, for the payment of which sum we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, if the above bounden Principal, his/her or its heirs, executors, administrators, successors or assign, shall in all things stand to and abide by and keep and perform the covenants, conditions and agreements in the said contract and any alteration thereof made as therein provided, on his/her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers and agents, as therein stipulated, then this obligation shall become null and void: otherwise, it shall be and remain in full force and virtue, and also in case suit is brought upon such bond, the above bounden principal and the said surety will pay a reasonable attorney's fee which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment therein rendered.

And the surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed or materials and/or equipment to be furnished thereunder or the Specifications accompanying the same, shall in anywise affect its obligations on this bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the Specifications.

IN WITNESS WHEREOF three identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the _____ day of _____, 20_____.

By _____ By _____

Surety Contractor

FORM OF LABOR AND MATERIAL BOND

KNOW ALL PERSONS BY THESE PRESENTS: That we _____ as Surety, and _____, as Principal, are held and firmly bound unto Inland Valley Development Agency, in the sum of _____ Dollars (\$_____), said sum being (100% of the estimated amount of the foregoing and annexed contract, to be paid to said _____, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH: That if the above bounden principal, as Contractor in the annexed contract or his/her subcontractors, shall fail to pay for any materials, provisions, provender, or other supplies or teams used in, upon, for or about the performance of the work contracted to be done, or shall fail to pay any person, company or corporation renting or hiring teams or implements or machinery for or contributing to said work to be done, or any person who supplies both work and materials therefore, or the amount due under the Employment Insurance Act with respect to such work or labor, the surety will pay for the same, in an amount not exceeding the above obligation, and also, in case suit is brought upon such bond, the above bounden principal and the said surety will pay a reasonable attorney's fee which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment therein rendered. This obligation and bond shall insure to the benefit of any and all persons entitled to file claims under Section 1184C of the Code of Civil Procedure and said persons or any of them or their assigns shall have a right to action thereunder.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, A.D., 20__.

Principal _____

Surety _____

(Seal)

By _____

(Attorney in Fact)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

On this _____ day of _____, 20__, before me _____ a Notary Public in and for the County of _____, _____ known to me to be the person whose name is subscribed to the within instrument as the Attorney in Fact of _____ and acknowledged to me that he has subscribed the name of _____ thereto as surety, and **his/her** own name as Attorney in Fact.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public in and for said County and State

CERTIFICATION OF INSURANCE COVERAGE

THIS IS TO CERTIFY that the contractor identified below is insured as of this date against all of the risks required to be insured against by the specifications for the project identified below, including, but not limited to, the types and amount of insurance, and the named insured required by said specifications.

The undersigned further certifies that the premiums for aforesaid insurance have been paid in full for a term not less than the time between the estimated commencement and completion dates of the project, that the insurance policies will not be reduced as to limits of liability or coverages without the prior written consent of Agency, and that Agency shall be given thirty (30) days prior written notice, delivered to the Agency by registered mail, of any intent to cancel said policies in which event Agency shall have the right, in its sole discretion, to continue the respective coverages without alteration until satisfactory substitute coverage is provided.

Dated: _____, 20____.

Name and Address of Contractor

Name and Address of Insurance Co.
and/or Agent

By: _____

By: _____

Title

Title

Name of Project:

**San Bernardino International Airport
TAXIWAY SHOULDER IMPROVEMENT PROJECT**

NOTE: POLICY COPIES OF CERTIFICATES OF INSURANCE COVERAGE FROM
INSURANCE COMPANIES TO BE INCLUDED WITH THE CONTRACT

SAMPLE CONTRACT CHANGE ORDER NO.

To Contract: _____
dated _____
by and between **San Bernardino International Airport Authority** (Agency),
and _____ (Contractor),
Contractor is hereby directed to make the following change in contract work:

By reason of Change Order No. _____, the time of expiration shall be adjusted as follows: _____ calendar days shall be added / subtracted to the contract schedule. Adjusted contract completion date shall be _____.

Recommended by (Engineer) _____	Date: _____
Accepted by (Contractor) _____	Date: _____
Approved by Agency _____	Date: _____
Approved by FAA _____	Date: _____

E. SPECIAL REQUIREMENTS

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2.	Work Site.....	SR - 1
3.	Mandatory Pre-Bid Tour	SR - 1
4.	Authorized Notice to Proceed.....	SR - 1
5.	Pre-construction Conference	SR - 1
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E. SPECIAL REQUIREMENTS1. The Work

The Work to be performed hereunder includes the furnishing of all labor and equipment and furnishing and installing all materials, unless herein specifically excepted, necessary for the TAXIWAY SHOULDER IMPROVEMENT Project.

The general work for this project includes 1) Taxiway shoulder improvements, 2) Restore pavement marking and striping of the repair areas, 3) In-field grading and hydroseeding.

The work shall comply with the "GREENBOOK" Standard Specifications for Public Works Construction 2018 Edition, Caltrans Standard Specification 2016 Edition, and these specifications. If there is a conflict between Specifications, the more detailed and stringent requirement shall have precedence.

2. Work Site

The contract work is located within the San Bernardino International Airport boundary. See vicinity and location maps on Construction Drawings.

3. Mandatory Pre-Bid Tour

A **MANDATORY** pre-bid meeting/job walk for prospective bidders and their major subcontractors will be conducted on **Tuesday, December 14, 2021 at 10:00 a.m.** at San Bernardino International Airport, the offices of the Agency at 1601 E. Third Street, San Bernardino, CA.

4. Authorized Notice to Proceed

Upon Notice of Award, Contractor is hereby authorized to execute contract and secure Performance and Payment Bonds and Certificates of Insurance.

Upon execution of contract by the San Bernardino International Airport, Contractor is authorized to begin contract work submittal document submission, material ordering, and construction scheduling.

Upon acceptance of the submittal documents necessary to begin construction and following preconstruction meeting(s), Contractor may proceed with construction.

5. Pre-construction Conference

Contractor and his/her major subcontractors shall attend a preconstruction conference at San Bernardino International Airport office as soon after award as San Bernardino International Airport considers necessary. Contractor will be given adequate notice of such meeting.

Contractor will submit a proposed construction schedule at said meeting, for subsequent approval. The submitted work schedule shall be in accordance with Section 7 of these specifications. Contractor shall also submit all other required data at the same meeting, or alternately, provide a submittal schedule for approval.

6. Construction Meetings

Construction meetings shall be held at the job site as requested by the Contractor or San Bernardino International Airport. Details regarding the job site meetings will be arranged at the pre-construction conference.

7. Work Schedule

Immediately after award of the contract, the Contractor shall submit to San Bernardino International Airport a work plan and schedule for accomplishment of all work called for by the contract. The Contractor shall use Primavera Project Planner (P6) for Windows 7, 8, 10 or newer version or other Engineer's approved software. The project schedule and subsequent updates shall be color plotted or printed on one sheet, and legible to the Engineer. The Construction Schedule shall be in sufficient detail to show the sequence of activities required for complete performance of all work; the early start and finish dates of all activities; and the critical path of the project.

The work activities shall include, but are not limited to, mobilization; submittals; Engineers review of submittals; procurement; testing, delivery, installation and inspection of equipment or materials; Subcontractors items of work; and all major construction activities.

The schedule shall clearly show the Contractor's method of compliance within the time limitation. The Contractor shall sequence his/her work to minimize disruption of airport operations. San Bernardino International Airport shall have final approval on the Contractor's schedule and sequencing.

This schedule shall be continuously updated so the San Bernardino International Airport Authority can issue Notices to Airmen and coordinate construction activity with the airport users. Five (5) days prior to the submittal of the Contractor's monthly payment request, the Contractor shall submit an Updated Construction Schedule reflecting progress to date, estimated start and completion dates for activities not yet begun, status of ongoing activities, approved changes to the work, and any schedule revisions.

Contractor shall submit a list that shows expected completion dates for all As-Built drawings covering all work performed under this contract within 30 calendar days after final completion. Submittal of all As-Built drawings shall be condition precedent to the release of retainage and final payment by the Authority.

In addition to the above project schedule, Contractor shall prepare and update weekly a two-week look ahead schedule for review at the weekly construction meetings. This schedule shall show all construction activities completed during the prior week and all construction activities scheduled for the following two weeks.

8. Access to Airport

Contractor shall verify from the Construction Manager and the Airport Authority, prior to the start of construction, approved access and haul routes. Access to construction zones shall be as shown on the project plans. Contractor shall be responsible for all damage to pavement, lighting and facilities resulting from his/her operations. For haul routes that cross taxiways, active taxiway portion shall be kept clean and free of debris and dust at all times on a continual basis. Runway, taxiways and aprons shall be left in usable condition at the close of each workday and weekends unless otherwise approved by the Construction Manager.

Prior to commencing work activities within the Airport Movement Area, Contractors, Subcontractors, and their employees must attend a mandatory class on "Pedestrian and Ground Vehicle Movement Area Training" that will be conducted by the Airport Operations Department. Arrangements for attendance can be made with the Operations Department. This Training is in addition to the training as required for "Airport Security and Badging Requirements" specified in Paragraph 10.

Escort shall be provided when it is required. The Contractor shall be responsible to provide their own egress and ingress to the project site, by contractor's personnel that have been approved to drive the AOA in accordance with SBIAA's movement area training requirements. Contractors shall also provide their own flaggers.

9. Airport Closure

Contractor's operations within the Air Operations Area of the airport will require closure of the airport to air traffic in accordance with the construction phasing plans.

Coordination of construction operations will be made a minimum of 48 hours in advance with the Construction Manager who will coordinate with the Airport Authority and Building Tenants. The Contractor shall maintain constant communication with Airport Representatives and Air Traffic Control at all times and obey all instructions to vacate the air operations area if required.

The Contractor shall furnish, erect and maintain barricades or delineators used to prevent unauthorized access to areas outside of the construction area.

Contractor shall furnish, erect and maintain all barricades, warning signs, markings and lights conforming to the requirements of the attached SBIA Construction Safety Plan and applicable portions of FAA Advisory Circular (AC) 150/5370-2G, *Operational Safety on Airports During Construction (See Appendices)*.

10. Security

a. General. The information contained in this section is intended to highlight and summarize requirements and responsibilities of the Contractor and is not intended to be used as a comprehensive list of the requirements. Efforts of the contractor in meeting SBIA's security requirements described herein shall be considered incidental to the project and no separate payment shall be made, except for "Airport Security Badging and Training Requirements" under paragraph d.

b. Gate Security. The Contractor shall maintain control at all construction entrances to prevent unauthorized access onto San Bernardino International Airport Authority's property. Security shall be maintained at all times and coordinated with San Bernardino International Airport Authority's security representative. Unlocked gates shall have a responsible person stationed at the gate to assure security of the Airport Operations Area (AOA). The gate security guard shall immediately communicate to the SBIAA security representative any unauthorized entry to the AOA. The gate security guard shall also assure that authorized vehicles entering the project have the required warning flags or flashing beacons. Guards shall be trained by SBIA staff in performing vehicle inspections and maintaining security at the point of entry and shall follow the procedures and instructions provided in the training. Only persons who have attended the training provided by SBIA staff shall be authorized to act as a guard. One day training by SBIA Staff for AOA Gate guard is required to maintain security at the point of entry.

c. Security Fences. All Airport perimeter fence and gates are part of SBIA security. The SBIA operations must be advised before any interruption to the existing perimeter security system is performed. Guards used for temporary openings in the perimeter security fence shall fulfill all requirements of gate security in Paragraph b.

d. Airport Security and Badging. Future air operational requirements at SBIA may require background screening of contractor's employees, sub-contractor employees, and suppliers. Personnel will be required to obtain and wear SBIA Picture I.D. Badges for access to AOA (Air Operations Area). Security badge program includes but not limited to the following:

1. Airport security and badging shall consist of Transportation Security Administration (TSA) Fingerprint Background Check and one-day security training class, as required by the Federal Aviation Regulation (FAR) Section 107.25(a) for each of the contractor's employees, sub-contractor employees, and supplier employees that will be operating without a constant escort within the Air Operations Area (AOA).
2. The Contractor shall submit a letter of intent and verification of contract award to SBIA/TSA for processing of I.D. badges. The format of the letter and the required forms will be provided by SBIA/TSA office to the Contractor.
3. The Contractor's highest-ranking local authority will need to designate an authorized signer and a certified trainer if required. All authorized Signers and Certified Trainers must clear Criminal History Record Check (fingerprinting) and security threat assessment.
4. The Contractor shall contact the SBIA Badge Office to schedule TSA Fingerprint Background Check for the employees requiring access to AOA at least **40 calendar days** prior to the project start date.
5. After clearing the Fingerprint Background Check, the employees will be notified and scheduled to attend the security training class.
6. Once all required documents have been completed and approved by the authorities, the SBIA Picture I.D. Badges will be issued to the employees.

7. Employees that will enter the Airport Movement Area shall be required to successfully complete and abide by airport rules as stipulated by the Airport's Pedestrian and Ground Vehicle Movement Area Training Course. The Airport Movement Area includes, but is not limited to, all Taxiway and Runway Areas. Employees that will enter the Movement Area shall be required to be equipped with and communicate with the Air Traffic Control Tower via contractor provided VHS aviation radio(s).

11. Safety

In compliance with generally accepted construction practices, the Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property for the duration of the Work. These requirements shall not be limited to merely working hours, but rather on a 24-hour day, 7-day week basis for said duration of work.

The Contractor shall comply with the Cal/OSHA Construction Safety Orders regarding, Safety Belts, Safety Nets, Temporary handrails, ladders and all related high-level safety applications. All safety measures shall be included in the unit cost for the various items of work.

Construction operations shall be conducted in accordance with Federal Aviation Administration Advisory Circular (AC) 150/5370-2G and SBIA Construction Safety Plan which is made a part of this contract.

All aspects of job safety, with respect to Contractor's employees, subcontractors and their employees, suppliers or agent and their employees, and the public safety affected by Contractor's operations, shall be the complete and full responsibility of the Contractor.

When San Bernardino International Airport's representative observes, and has reasonable facility to recognize, a matter that he might reasonably expect to be, or have the potential of being, in violation of the Construction Safety Orders, or the approved manual or plan for traffic control, the following procedures will be followed to the extent practicable.

a. Safety Notification Advisory. An advisory will be given, in writing, to the Contractor's designated safety representative, if any, or to the person in effective charge.

b. Safety Stop Work Advisory. If the Contractor takes no remedial action, or if the action taken is or may be inadequate, and if the circumstances give San Bernardino International Airport Authority's representative reasonable facility to know it, San Bernardino International Airport Authority's representative may elect to issue a SAFETY STOP WORK ADVISORY requesting that the Contractor voluntarily stop work until the safety matter is resolved.

c. Contractor's Refusal of Safety Stop Work Advisory. If the Contractor continues to work without remedy after receiving a SAFETY STOP WORK ADVISORY, Contractor shall provide San Bernardino International Airport Authority's representative with a written refusal stating the Construction Safety Order provisions, Traffic Manual provisions, or other applicable regulations that substantiate a proper and legal justification to continue. If Contractor refuses or fails to give such written refusal and substantiation, or fails to take remedial action immediately as promised, the affected work shall be immediately suspended for cause.

d. Notification of OSHA or Other Applicable Authority. California Occupational Safety and Health Authorities (CAL-OSHA), or other applicable authority, will be notified and asked to inspect the job site when a written refusal and substantiation statement has been issued by the Contractor or work has been suspended for cause after the previously described steps have been followed. In either case, San Bernardino International Airport Authority's representative will give written notification to the Contractor that the work place is presumed unsafe by San Bernardino International Airport Authority and said representative will leave the site until a ruling is received from the authorities.

e. Immediate Supervision of Work When Necessary. In any event, San Bernardino International Airport Authority reserves the right, and will so instruct its representatives, to suspend the work for cause immediately, without prior notice, in any situation it considers to present a clear and present danger to anyone.

f. No Extra Compensation for Safety-Related Work Stoppage. When Contractor stops work voluntarily pursuant to a SAFETY STOP WORK ADVISORY, Contractor shall not be eligible for extra work compensation or time extension. Likewise, no extra compensation or time extension will be due Contractor in cases where work has been suspended for cause, unless San Bernardino International Airport Authority's representative acts in bad faith.

Authorized vehicles and all construction equipment entering the Airport Operations Area shall be equipped with either a flashing yellow beacon or a 3' by 3' checkered airport safety flag. This includes delivery trucks, service vehicles and any other authorized vehicle. Personnel shall wear an approved high-visibility vest and any other personnel safety gear required by the Code of Safe Practices.

12. Job Site Work Schedule

Contractor agrees that the time to complete the Contract, as stated by the Contractor in the Bid Proposal, shall be computed from the date the Agency issues the Notice to Proceed. The work shall be completed within the time as specified in the Contract Documents, Page CD-3 Paragraph 6 "Time for Completion". Agency agrees to issue Notice to Proceed within fifteen (15) days of receipt of executed Contracts.

13. Protection of Existing Facilities

During the installation of Work, Contractor shall insure that existing facilities, fences, and other structures are all adequately protected, unless otherwise specifically stated in the plans and specifications. Upon completion of all Work, all facilities that may have been

damaged shall be restored to a condition acceptable to San Bernardino International Airport Authority.

14. Examination of Plans, Specifications, and Work Site

The bidder shall examine carefully the Work site. The submission of a bid shall be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered as to character, quality, and Scope of Work to be performed, and quantities of materials to be furnished.

The project site will be made available for Bidders to make their own investigation of the existing site at no cost to the Owner during the job walk time as specified in Section 9, Page BD-5.

15. Subsurface Data

Soils reports and other reports of subsurface conditions may be available for inspection by the Contractor. HOWEVER, SUCH REPORTS AND DRAWINGS ARE NOT CONTRACT DOCUMENTS. The Contractor may rely on the general accuracy of the "technical data" contained in such reports and drawings only where such "technical data" are specifically identified on the special provisions. Except for such reliance on such "technical data", the Contractor may not rely upon or make any claim against the owner, the Engineer, nor any of the Engineer's Consultants with respect at any of the following:

Completeness – The completeness of such reports and drawings for the Contractor's purposes, shall include, but not be limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.

Other Information – Other information includes any other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings.

Interpretation – Interpretation is defined as any interpretation by the contractor of such "technical data" or any conclusion drawn from any "technical data" or any such data, interpretation, or information.

16. Defective Work and Materials

The Contractor shall promptly remove from the premises all materials condemned by San Bernardino International Airport Authority as nonconforming whether incorporated into the Work or not. Where materials or Work have been condemned by San Bernardino International Airport, the Contractor shall promptly re-perform the Work in accordance with the Contract and without expense to San Bernardino International Airport; and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

17. Manufactured Items

Manufactured items installed in this Project and not specifically covered in the specifications or drawings are to be installed in strict conformance with the manufacturer's current printed instructions.

18. Changes in the Work

The Contractor shall, when requested by San Bernardino International Airport, furnish an itemized breakdown of the quantities and prices used in computing the value of any proposed change that may be contemplated. All change order requests shall be submitted on the provided forms (See Contract Documents).

19. Power Supply

All electric power required for construction uses or other purposes shall be provided by the Contractor at Contractor's expense.

20. Water Supply

All water needed for construction shall be obtained at the Contractors expense. Contractor should obtain a water meter from the City of San Bernardino. Contractor is responsible for all Permits, fees or other expenses.

21. Temporary Barricades

The SBIA Construction Safety Plan (APPENDIX 2) is included and is made part of this contract. The Contractor shall furnish, erect and maintain all barricades and lights as stipulated in the Airfield Construction Safety Plan and these provisions shall be included in the contract price for Mobilization and Traffic Control. The Airfield Construction Safety Plan conforms to the requirements of FAA Advisory Circular 150/5370-2G, Operational Safety on Airports During Construction.

Truck access routes crossing taxiways, taxilanes and apron and in-field areas shall be delineated with 42-inch high molded plastic delineators set maximum fifty (50) feet on center. Delineators shall be four inches in diameter, fluorescent orange, supplied with a weighted base and two silver stripes.

22. Supervision, Coordination, Scheduling, and Inspections

Contractor shall coordinate and schedule all construction activities with the Airport Operations Manager prior to beginning the various phases of construction. Construction contract administration will be performed by San Bernardino International Airport or his/her representative.

During construction, regularly scheduled meetings with the Contractor, Construction Manager and SBIAA shall occur. The exact time, location and frequency shall be determined at the pre-construction meeting.

Survey or inspection requests shall be submitted to the Construction Manager a minimum of forty-eight (48) hours in advance of the requested survey or inspection.

23. Fire Precautions and Protection

The Contractor shall take necessary precautions to guard against and eliminate possible fire hazards and to prevent damage to construction work, building materials, equipment, temporary field offices, storage sheds, and public and private property.

24. Sanitation

All of the work shall be maintained in a neat, clean, and sanitary condition. All waste and refuse from sanitary facilities provided by the Contractor or from any other source relating to the Contractor's operations shall be taken care of in a sanitary manner, satisfactory to San Bernardino International Airport, and in accordance with all applicable laws and regulations. Adequate fixed and portable toilets shall be provided by the Contractor for use by employees.

25. Liquidated Damages

In the event that all the work called for under this Contract in all part and requirements is not completed as set forth in the proposal and because time is of the essence for this project, Contractor shall forfeit and pay to San Bernardino International Airport Authority the sum of **\$500.00** per day for each calendar day the work remains incomplete, to be deducted from any payments due, or to become due, to the Contractor. The Contractor shall also forfeit and pay to San Bernardino International Airport Authority the sum of **\$500** per day for each calendar day for non-compliance with the SBIA Construction Safety Plan and **\$1,000.00** per hour or fraction of an hour for unscheduled interruptions of active power, airfield lighting, and communication system or failure to re-open the runway and taxiway(s) at the specified time..

26. As-Built Drawings

The Contractor shall be required to keep a separate set of construction Plans upon which he shall designate "as-built" conditions using sufficient sketches to properly indicate locations of all underground facilities installed under this contract or any existing facilities located during the work and remaining in place, and any other pertinent items. Updates to the as-built drawings shall be performed as needed and reviewed by the Construction Manager prior to monthly pay requests. Prior to filing of the "Notice of Completion", the Contractor shall certify the "as-built" information in a letter and transfer the "as-built" documents to the Agency.

27. NPDES Compliance

In compliance with the National Pollution Discharge Elimination System (NPDES) permit requirements, the State of California Regional Water Quality Control Board (RWQCB) has required that each construction event that disturbs more than 1 acre of land must submit a Notice of Intent (NOI) with the RWQCB and prepare and comply with a Storm Water Pollution and Prevention Plan (SWPPP). The cost for performing, maintaining and updating the SWPPP throughout the life of the project shall be paid for under Bid Item "Storm Water Pollution Prevention Control". Compliance with this requirement including but not limited to the following:

- Preparation and Filing of a Notice of Intent with the RWQCB.
- Preparation and Compliance with a state approved SWPPP.
- Ongoing implementation of all relevant Best Management Practices (BMPs) as defined in the SWPPP.
- Preparation and maintenance of all appropriate documentation as defined in the SWPPP.
- Education and accountability of all staff performing work on site.

28. Warranties and Guarantees

The Contractor shall warrant all systems, materials, and components installed under these specifications for a period of not less than one (1) year from time of beneficial use of the facility and systems by the Agency. Additional manufacturer's warranties as specified in these specifications shall be provided.

Provide three (3) notarized copies of all warranties and guarantees required in the Specifications prior to final completion. Failure to submit warranties and guarantees as required herein may result in the Agency retaining an amount equal to 10 percent of the estimated value of the work performed during the month from the next submitted Progress Estimate, except that such retention shall not exceed \$10,000 nor be less than \$1,000. Upon receipt of the required warranties and guarantees any such withheld amounts will be released with the next progress payment. Until such time as the warranties and guarantees are provided, no Final Payment shall be due and owing. Provide a complete warranty matrix prior to final completion.

29. Operation and Maintenance Manuals

The Contractor shall provide three (3) sets of the operation and maintenance manuals, bound in 8 1/2 x 11 inch three ring side binders with durable plastic covers. Manuals must be furnished to the Engineer at least two weeks prior to the scheduled dates of any required Contractor furnished field instructions are required.

30. Spare Part and Maintenance Materials

The Contractor shall provide products, spare parts and maintenance materials in quantities specified in each Section, in addition to that used for construction of Work. Coordinate with the Engineer, deliver to Engineer's representative and obtain receipt prior to final payment. Failure to provide materials as required herein shall result in the Agency retaining an amount equal to 10 percent of the estimated value of the work performed during the month from the next submitted Progress Estimate, except that such retention shall not exceed \$10,000, nor be less than \$1,000. Upon receipt of the required materials any such withheld amounts will be released with the next progress payment. Until such time as the required materials are provided no Final Payment shall be due and owing.

31. Permits and Fees

Payments for "Permits and Fees" are the sole responsibility of the Contractor.

32. Quality Assurance, Quality Control and Testing

The Contractor shall be responsible and pay for all quality control and testing requirements as required by the technical specifications. The acceptance testing requirements are the responsibility of the Owner/Engineer. The Owner will engage an independent testing and inspecting agency and will pay for the services to perform field tests and inspection for acceptance of the work.

33. Coordination of Contract, Plans, and Specifications

The contract, plans, specifications, and all referenced standards cited are essential parts of the contract requirements. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; contract technical specifications shall govern over contract general provisions, plans, cited standards for materials or testing, and cited FAA advisory circulars; contract general provisions shall govern over plans, cited standards for materials or testing, and cited FAA advisory circulars; plans shall govern over cited standards for materials or testing and cited FAA advisory circulars. If any paragraphs contained in the Special Requirements conflict with General Provisions or Technical Specifications, the Special Requirements shall govern.

General Requirements of the contract will govern over FAA General Provisions as attached to these specifications.

The Contractor shall not take advantage of any apparent error or omission on the plans or specifications. In the event the Contractor discovers any apparent error or discrepancy, he shall immediately call upon the Engineer for his/her interpretation and decision, and such decision shall be final.

34. Hazardous Materials

No hazardous materials are anticipated to be removed as part of this project. The Contractor shall inform SBIAA if hazardous and contaminated materials are discovered at the construction site before continuing the work.

Hazardous and contaminated materials and hazardous waste shall be handled according to applicable laws and regulations in effect at the time of disturbance, transport or disposal of said hazardous materials or waste and requirements of the Contract Documents. In the event of conflict, the more stringent requirement shall apply.

35. Technical Specifications - Base Bid Items

BID ITEM 1 – MOBILIZATION AND DEMOBILIZATION (5% Max)

Per Specification Item C-105

Mobilization and Demobilization, and all Work associated therewith, shall be measured for payment by the lump sum as a single complete unit of Work.

Payment for Mobilization and Demobilization shall be made at the lump sum contract price. Mobilization shall not exceed five percent (5%) of the total price for the base bid with partial payments as follows:

- a. With first pay request, 20%.
- b. When 25% or more of the original contract is earned, pay an additional 20%.
- c. When 50% or more of the original contract is earned, pay an additional 25%.

d. When 75% or more of the original contract is earned, pay an additional 25%.

e. After Final Inspection, clean-up and delivery of all Project Closeout materials as required by FAA General Provisions 90-11 and Item C-115, pay the final 10%.

Mobilization and Demobilization shall also include cost of driver's training associated with Paragraph 8 "Access to Airport" and Paragraph 10b "Gate Security" of Special Requirements (SR).

This price shall be full compensation for furnishing all materials, labor, equipment and tools necessary to complete mobilization and demobilization.

BID ITEM 2 – CONTRACTOR'S QUALITY CONTROL PROGRAM

Per Specification Item C-100

Contractor Quality Control Program will not be measured but will be paid for as a lump sum.

Contractor Quality Control Program will be paid for at the contract lump sum price. This price shall include full compensation for furnishing all labor, materials, equipment, tools, incidentals and for doing all the work of this item complete in place. The CQCP will be paid as a lump sum with the following schedule of partial payments:

a. With first pay request, 25% with approval of CQCP and completion of the Quality Control (QC)/Quality Assurance (QA) workshop.

b. When 25% or more of the original contract is earned, an additional 25%.

c. When 50% or more of the original contract is earned, an additional 20%.

d. When 75% or more of the original contract is earned, an additional 20%.

e. After final inspection and acceptance of project, the final 10%.

BID ITEM 3 – STORMWATER POLLUTION PREVENTION CONTROL PLAN

Per Specification Item C-102

Temporary air and water pollution, soil erosion and siltation control will not be measured but will be paid for as a lump sum.

Temporary air and water pollution, soil erosion and siltation control will be paid for at the contract lump sum price. This price shall include full compensation for furnishing all labor, materials, equipment, tools, incidentals and for doing all the work of this item complete in place, including preparation, obtaining approval of, amending, updating and implementation of Storm Water Pollution Prevention Plan (SWPPP) and including the Best Management Practices (BMP's) for the duration of the project.

BID ITEM 4 – CONSTRUCTION SAFETY AND PHASING PLAN

Per Specification Item C-115

Construction Safety and Phasing Plan will not be measured, but shall be paid for as a lump sum.

This price shall be full compensation for the preparation, obtaining approval, and amending of the Construction Safety and Phasing Plan (CSPP) and the Safety Plan Compliance Document (SPCD) including implementation and furnishing all labor, materials, traffic control devices, incidentals and equipment, tools including installation, relocation and maintenance of barricades and traffic control throughout the duration of the project necessary to complete the work.

BID ITEM 5 – REMOVAL AND RESTORATION OF TAXIWAY EDGE LIGHTS

Per Specification Item C-115

Removal and restoration of taxiway edge lights will not be measured but will be paid for as a lump sum.

Removal and restoration of taxiway edge lights will be paid for at the contract lump sum price. This price shall include full compensation for furnishing all labor, materials, equipment, tools, incidentals and for doing all the work of this item complete in place including removing and salvaging the edge lights, installing cover plates, and re-installing and re-energizing the taxiway edge lights.

BID ITEM 6 – DEMOLITION AND REMOVAL OF ASPHALT PAVEMENTS (3" TO 5" THICK)

Per Specification Item P-101

The quantity of asphalt concrete pavement removed shall be measured by the number of square yards of asphalt concrete pavement removed and disposed off airport property based on the actual thicknesses. The depth of the asphalt concrete pavements specified on the plans is estimation only for bidding purposes and may be different from actual depth.

The existing asphalt concrete materials shall be removed and disposed off airport property.

Unless other bid items are provided, no direct measurement and payment for the removal and disposal or salvage of all other materials will be made.

Measurement shall not include quantity of unsuitable material, or material removed without authorization beyond grading limits, or the quantity of material used for purposes other than those directed.

The Contractor shall be paid on the basis of the contract unit price per square yard for the removal and disposal of existing asphalt concrete pavement removed and disposed off property at the ranges of thickness specified. These prices shall be full compensation for furnishing all materials, labor, equipment, tools, and incidentals necessary to complete the

item, including removal of miscellaneous PCC pavements and abandoned sawkerfs within the taxiway shoulder areas, hauling and disposal off site airport property.

BID ITEM 7 – UNCLASSIFIED EARTHWORK

Per Specification Item P-152

The quantity of unclassified earthwork will be measured per cubic yard of material excavated, embanked, and/or exported and stockpiled on-site. Measurement shall not include the quantity of material excavated without authorization beyond normal slope lines, or the quantity of material used for purposes other than those specified under herein.

Unclassified earthwork shall be paid for at the contract unit price per cubic yard. The price shall be full compensation for furnishing all materials and for all preparation including clearing and grubbing of existing vegetation, excavation, embankments, hauling, grading, and disposal of excess material off airport property, and for all labor, equipment, tools, transportation and incidentals necessary to complete the item.

BID ITEM 8 – 12-INCH SUBGRADE SCARIFY AND RECOMPACT

Per Specification Item P-152

The quantity of subgrade, scarify and recompact will be measured per square yard of subgrade prepared to the specified depth and accepted by the Engineer.

Subgrade, scarify and recompact shall be paid for at the contract unit price per square yard. The price shall be full compensation for furnishing all materials and for all preparation and finishing of the surface, and for all labor, equipment, tools, transportation and incidentals necessary to complete the item.

BID ITEM 9 – 8-INCH THICK CRUSHED AGGREGATE BASE COURSE

Per Specification Item P-209

The quantity of crushed aggregate base course will be determined by measurement of the number of square yards of material at the specified thickness actually constructed and accepted by the Engineer as complying with the plans and specifications.

Payment shall be made at the contract unit price per square yard for crushed aggregate base course. This price shall be full compensation for furnishing all materials, for preparing and placing these materials, and for all labor, surveying, equipment tools, and incidentals necessary to complete the item.

BID ITEM 10 – 4-INCH THICK ASPHALT MIX SHOULDER PAVEMENTS (P-403)

Per Specification Item P-403

Asphalt mix shoulder pavement shall be measured on the basis of the number of tons completed and accepted by the Engineer. Recorded batch weights or truck scale weights will be used to determine the basis for the tonnage.

Payment for asphalt mix pavement shall be made at the unit price bid per ton. The price bid shall be full compensation for furnishing all materials, including required tack coats, labor, equipment, tools, and incidentals necessary to complete asphalt mix pavement for these areas including cold milling to join existing asphalt pavements and tack coat.

BID ITEM 11 – RESTORE AIRFIELD PAVEMENT MARKINGS

Per Specification Item P-620

The quantity of Restore Airfield Pavement Markings to be paid for shall be the number of square feet of painting performed in accordance with the specifications and accepted by the Engineer. No separate measurement shall be made for paint with or without glass beads, type of color, nor for each coat or application of paint.

The actual quantity of pavement markings will be determined by the Engineer based on the conditions found at the time of construction. The estimated bid quantity is for the purpose of establishing a Contract unit price for this item and Airport Authority reserves the right to vary the actual quantity of pavement markings from 50% to 150% of the bid quantity at no change in the contract unit price.

Payment shall be made at the respective contract price per square feet for Restore Airfield Pavement Markings. This price shall be full compensation for furnishing all materials including reflective media and for all labor, surface preparation, equipment, tools, and incidentals necessary to complete the item.

BID ITEM 12 – HYDROSEEDING

Per Specification Item T-901

The quantity of hydroseeding shall be measured by the number of square yard on the ground surface, completed and accepted by the Engineer.

Payment shall be made at the contract unit price per square yard of hydroseeding.

Payment shall be full compensation for furnishing and placing all material and for all labor, equipment, tools, including watering until germination and growth of adequate vegetation, and incidentals necessary to complete the work prescribed in this item.

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200 - DBE

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General

Acceptance of Airport Improvement Program (AIP) funds obligates a sponsor to comply with the Disadvantaged Business Enterprise (DBE) Program and other civil rights requirements.

As detailed in Table 5-5 part an of the AIP Handbook (Order 5100.38D), sponsors seeking AIP participation in projects that equals or exceeds an accumulative amount of \$250,000 within a fiscal year must have an approved DBE program on file with the FAA prior to issuance of a grant. The sponsors approved program must establish regional goals that facilitate participation by available DBE firms in their federally assisted projects.

Table 5-5 outlines other civil rights requirements as well including:

- Airports Concessions DBE
- Americans with Disabilities Act
- Air Carrier Access Act of 1986 and
- Title VI of Civil Rights Act of 1964.

See the handbook for more information.

Limitations of Use

The obligation for any required action addressed within this guidance originates within applicable Federal directives such as United States Code (USC), Public Law (PL), Code of Federal Regulations (CFR) and official FAA policies. The supplemental information provided within this guidance does not establish additional requirements for participation in the AIP.



210 - DBE Overview

General

Federal regulation [49 CFR Part 26](#) establishes requirements for recipients of the U.S. Department of Transportation (DOT) Federal financial assistance (namely, state and local transportation agencies) as they relate to establishment of disadvantaged business enterprise (DBE) programs. A separate regulation ([49 CFR Part 23](#)) addresses specific DBE requirements that pertain to airport concessions.

Objectives of the DBE Program

Some of the primary purposes of a DBE program include:

- To ensure non-discrimination in the award and administration of DOT-assisted contracts
- To create a level playing field on which DBE's can compete fairly for DOT-assisted contracts
- To ensure that the DBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet the eligibility standards are permitted to participate as DBE's
- To help remove barriers to the participation of DBE's in DOT-assisted contracts
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBE's

Who must have a DBE program?

FAA grant recipients must have an approved DBE program on file with the FAA if they receive AIP assistance for airport planning or development that involve the award of prime contracts exceeding a cumulative amount of \$250,000 in one fiscal year.

The \$250,000 threshold is not a project specific threshold. This threshold represents the sum of AIP assistance a sponsor receives in a fiscal year. For example, if a sponsor intends to award two separate prime contracts within a fiscal year with one project requiring \$100,000 AIP funds and the 2nd project requiring \$150,000 in AIP funds, the sponsor must have an approved DBE program on file with the FAA because the value of federal assistance sums to \$250,000 for that fiscal year.

Qualifying DBE firms

To qualify as a disadvantaged business enterprise for DOT-assisted contracts, eligible firms must apply for and receive certification from the Unified Certification Program (UCP) within their State and the State of the AIP project. The certification process includes a review of the personal net worth limitations, size standards, ownership and control requirements and social economic status.

RESOURCES

U.S Department of Transportation

- [USDOT Office of Small & Disadvantaged Business Enterprise](#)
 - [DBE Program](#)
 - [ACDBE Program](#)
 - [Guidance for DBE Administrators](#)
- [FAA Office of Civil Rights - Airport DBE Program](#)

Regulation

State Transportation DBE Websites – Link to DBE directory provided on web pages below

- [Iowa](#)
- [Kansas](#)
- [Missouri](#)
- [Nebraska](#)



220 - DBE Program Submittal Information

When Should the DBE Program Be Established?

Effective March 2010, the DOT modified the frequency for which a grantee must update their DBE program. The FAA will now evaluate a sponsor’s DBE program on a 3-year frequency interval instead of the past

yearly annual review. To facilitate the workload, the FAA staggered the implementation of this new policy by basing the requirement for submitting an overall program update upon an airports classification and region location. Sponsors must submit their overall program updates per the following schedule and thereafter on a 3-year frequency.

Schedule for DBE Program Goal Updates

Airport Classification	Region	Due Date	Period Covered
Large & Medium Hubs (Primary)	All Regions	August 1, 2016	2017/2018/2019
Small Hub (Primary)	All Regions	August 1, 2017	2018/2019/2020
Non-Hub (Primary)	All Regions	August 1, 2018	2019/2020/2021
Non-Primary & State DOTs	Central Southwest Western-Pacific	August 1, 2018	2019/2020/2021

Available Guidance for Preparing a DBE Program

The FAA Office of Civil Rights has prepared a [sample DBE program](#) that administrators may use as a template when developing their specific DBE program. The DOT Office for Small & Disadvantaged Business Utilization also has a website that includes [Guidance for DBE Program Administrators](#).

FAA Point of Contact

The [FAA DBE Compliance Program Regional Point of Contact List](#) identifies which specialist a Sponsor should contact with regard to their DBE programs (Part 23 and Part 26). Central Region sponsors with specific questions regarding their DBE program may contact:

Ofelia Medina
Federal Aviation Administration
Western-Pacific Region Headquarters, AWP-9
P.O. Box 92007
Los Angeles, CA 90009-2002
310-725-3947



230 - DBE Goals

General

Sponsors are required to establish an overall DBE participation goal that reflects the ratio of ready and willing certified DBE firms relative to all ready and willing firms for their regional area. Sponsors may not simply rely on the national aspiration goal of 10% as the basis for their own overall goal. The overall goal must reflect the sponsor's reasonable determination of DBE participation absent the effects of discrimination.

Sponsors should note that the establishment of an overall DBE goal does not represent a quota for any DOT assisted project. Sponsors may not incorporate set aside contracts for DBEs in order to meet the overall DBE goal.

Program versus Contract Goals

The recent change from an annual program goal to a three-year program goal has highlighted the confusion between an overall DBE program goal and a project specific goal. The three-year overall DBE goal the FAA approves does not serve as the contract goal used for all projects during that period.

The overall DBE goal represents the anticipated participation by certified DBE firms over a three-year period and includes both race/gender neutral means and race/gender conscious means. The contract goal represents the anticipated participation by DBE firms for a specific project and only addresses race/gender conscious means. The factors and circumstances associated with a project may also affect the available subcontracting opportunities. A project specific DBE goal will rarely be the same value as the overall DBE goal.

Prime Contracts and \$250,000

The recent change to a 3-year program highlights another confusing matter, that being the purpose of the \$250,000 threshold. Per §26.21, the \$250,000/FY establishes when a grant recipient must have an approved DBE program on file with the FAA. This value does not have any real relation to any project specific DBE goal.

A project contract goal is a race/gender conscious method of obtaining DBE participation. Contract goals apply only if race/gender neutral methods are not sufficient in obtaining DBE participation. When neutral methods are inadequate, sponsors may apply project specific goals on projects that have subcontracting opportunities.

The contract goal should reflect the availability of certified DBE subcontractors as it relates to all available subcontractors taking into consideration the nature and character of the work. The \$250,000 DBE program goal threshold is not relevant with determining whether a project contract goal is necessary. A project expecting to cost \$100,000 may very well require a DBE contract goal to assist the sponsor with meeting their 3-year overall goal.



231 – Establishing Overall DBE Goal (3 –year goal)

Demonstrable Evidence

Sponsors must establish their 3-year overall goal based upon demonstrable evidence of the availability of ready and willing DBE firms **relative to all** ready and willing firms. The sponsor’s documentation shall identify all applied data sources and processes they used to establish the goal. This includes assumptions made, any public comments they received that pertain to the proposed goal and their resolution of those comments. Failure to adequately document how a sponsor derived their overall goal can result in delays with approval of your program.

3 step process -§26.45

Current federal regulations recommend sponsors apply a 3-step process to establish their overall DBE goal. The process to establish a 3-year overall goal should take into consideration all anticipated AIP funded projects the sponsor intends to pursue within the 3-year period.

Step 1 - Determine base figure for available DBEs relative to all available firms

- Establish market area
- Identify different types of work and associated NAICS code
- Calculate percentage of work types for all identified projects (e.g. 10% trucking, 45 % concrete, etc.)
- Research DBE directories to establish ready and willing DBE firms
- Use Bidders lists, NAICS codes, etc. to establish all firms (DBE and non-DBE firms) ready and willing to participate
- Using a weighted calculation based on percentage work types, divide number of DBE firms by the number of all firms to establish a base figure for your market area

Step 2 - Examine the base goal to determine what adjustments are necessary.

- Sponsor must consider all evidence available in their jurisdiction to determine whether such an adjustment is necessary (i.e. sponsor cannot forgo this step).

- Evaluate current capacity of certified DBE firms to perform the work.
- Evaluate results from past participation.
- Research evidence from disparity studies conducted in your market area (including relevant studies commissioned by other contracting agencies in your market area).
- Evaluate statistical disparities in the ability of DBEs to get financing, bonding and insurance.
- Research data on employment, self-employment, education and training, union apprenticeship programs.
- Consider any other data that would help to better measure the percentage of work that DBEs would be likely to obtain in the absence of discrimination.

Step 3 – Calculate the race/gender neutral component

- Sponsors must meet the maximum feasible portion of their overall goal by using race/gender-neutral means
- Sponsors must be able to explain how they established the percentage of DBE participation that they could achieve through race/gender-neutral means
- Consider the amount by which you exceeded your advertised DBE goals on past projects. The value of DBE participation over the advertised goal value is race/gender neutral participation
- Awards made to prime contractor that are a certified DBE firm is a race/gender neutral procurement action

FAA Assistance

Sponsors may contact the FAA Civil Rights Office for assistance with establishing a program goal. Please consult the following document for your assigned point of contact:

[FAA External EEO Program Manager](#)
Western-Pacific Region Headquarters, AWP-9
P.O. Box 92007
Los Angeles, CA 90009-2002
310-725-3955



232 – Project Contract DBE Goals

Contract Goals

Sponsor may not apply race/gender conscious goals (contract goals) unless they can reasonably demonstrate they will not be able to meet their overall DBE goal relying on race/gender neutral means. Incorporation of a contract DBE goal is a race/gender **conscious** method of obtaining DBE participation. Sponsors must strive to meet the maximum feasible portion of their overall goal by using race-gender **neutral** means. The purpose of a contract goal is to meet that portion of the overall DBE goal that the sponsor is not able to meet by race/gender neutral means.

Factors for establishing Contract Goals

Sponsors may apply the same general steps used to establish an overall program DBE when establishing a project specific goal. Because the project specific goal only applies to that portion of the overall goal not met by neutral means, the establishment of a project specific goal only applies to the subcontracting opportunities that are available for a given project. Any contract award made to a DBE as a prime contractor is by definition race/gender neutral participation.

The contract goal should represent a percentage of ready and willing DBE firms relative to all ready and willing firms available for subcontracting opportunities on the given project. The following apply when establishing a contract goal:

- Contract DBE goals are not set asides or quotas that prospective bidders must meet to be a responsive bidder.
- Sponsor may only use contract goals on AIP projects that have subcontracting possibilities. Sponsors should keep in mind that under the AIP, unless otherwise approved by the FAA, the prime contractor should accomplish at least 25% of the project work with their own forces. Sponsors should take this provision into account when preparing a contract DBE goal.
- Sponsors are not required to establish a DBE contract goal on every DOT-assisted contract. If a sponsor has already met their overall goals or the current procurement action does not have subcontracting opportunities, the sponsor procurement package

should incorporate race/neutral methods rather than race/gender conscious contract goal.

- Sponsor should not typically set a contract goal to equal the same percentage as their overall DBE goal. The goal for a specific contract will typically be higher or lower than their 3-year overall goal.
- If a sponsor can meet their overall goal through race/gender neutral means, sponsor must avoid setting contract goals and instead rely on race/gender neutral methods.
- Contract goals must reflect participation by all DBEs and should not be subdivided into group specific goals.
- Unless otherwise requested by the FAA, the sponsor does not need to submit their contract goal methodology to the FAA for review and approval. However, sponsors must make this methodology readily available if requested by the FAA or the U.S. DOT.

Adjusting Contract Goals

To ensure sponsors administer their program in a narrowly tailored manner as required by the DBE rule, sponsors must adjust their contract goals to reflect the current status of their effort in meeting their overall goal. Sponsors shall evaluate their progress in meeting their three-year overall goal and make appropriate adjustments by raising, lowering or eliminating contract goals.

[Section 26.51\(f\)](#) provides several examples that explain when it is appropriate to rely on neutral means vs. making necessary adjustment to contract goals.

- If after 2 years into your overall goal, you discover your DBE participation to date is less than your originally projected value, raise your contract goal so that you will meet your overall DBE goal at the end of the 3-year period.
- If during the course of the 3-year period, you meet your overall DBE goal; all future projects within the remaining 3-year period must be based only upon race/gender neutral means. Sponsors may not apply contract goals in this case.



Bid Solicitation

To remain eligible for AIP reimbursement, sponsors may only award contracts to the bidders who have demonstrated a good faith effort in meeting the advertised DBE contract goal. Prospective bidders accomplish this by:

1. Obtaining sufficient participation by certified DBE firms that meets the contract goal or by
2. Documenting that they made reasonable good faith effort in obtaining participation by certified DBE firms even though they were unsuccessful in meeting the contract goal.

The solicitation must establish that the award of contract is contingent on meeting the following requirements:

- a) All bidders are required to submit the information requested in the sample Invitation for Bids language below.
- b) The sponsor has the discretion of requiring this submittal as part of bid responsiveness or prior to actual commitment of a contract.

The following sample Invitation for Bids (IFB) language is acceptable for notifying potential bidders of the DBE requirements. Sponsors may use this or draft their own language provided the language meets the requirements of 49 CFR Part 26.53.

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the <Name of Recipient> to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders, including those who qualify as a Disadvantaged Business Enterprise (DBE).

The <Name of Recipient> has established a DBE contract goal for this contract. The Bidder/Offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to subcontract <Insert DBE Goal> of the dollar value of the prime contract to certified DBE firms as defined in 49 CFR Part 26.

All bidders shall submit the following information with their proposal on the forms provided:

- (1) *The names and addresses of DBE firms that will participate in the contract;*
- (2) *A description of the work that each DBE firm will perform;*
- (3) *The dollar amount of the participation of each DBE firm participating;*
- (4) *Written documentation of the Bidder/Offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;*
- (5) *Written confirmation from the participating DBE firms verifying their intent to participate in the project (i.e. Letter of Intent)*
- (6) *Evidence of good faith efforts undertaken by the bidder, as described in appendix A to 49 CFR Part 26*

Note: Per Federal Regulation 49 CFR Part 26.53.b.3, sponsors have the discretion to require the bidder to submit the DBE confirmation as a matter of bid responsiveness or any time prior to commitment to performance of the work (contract award). The solicitation should explicitly state when all DBE information is to be submitted.

Bid Solicitation for Race/Gender Neutral Means

For projects where race/gender neutral methods apply, the invitation for bids should not identify a contract goal that prospective bidders must meet in order to be responsive. Instead, sponsor should consider inserting within the Invitation for Bids race/gender neutral language similar to the following:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the <Name of Recipient> to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals.



DBE Proposal Forms

For the sponsor's convenience, we have prepared sample proposal forms that sponsors may use to meet the requirements of 49 CFR Part 26.53.

1. [DBE Utilization form](#) – Addresses Prime Contractor's DBE Commitment
2. [Letter of Intent form](#) – Addresses required DBE information and affirmation

Prospective bidders must make a good faith effort to seek participation by DBE firms prior to submitting their bid. Bidders may not simply state they will meet the advertised goal and then initiate contact with DBE firms only after they are awarded the contract.



240 - Good Faith Efforts (GFE)

Bidders Good Faith Efforts - 49 CFR Part 26.53

In order to qualify as a responsible and responsive bid, bidders must make good faith efforts to meet the advertised project goal on all projects that utilize a specific project goal. They may accomplish this in one of two ways:

1. By meeting the goal and documenting the commitments of the DBE firms.
2. By making a good faith effort in the event that they are unable to meet the advertised goal and documenting their efforts

A good faith effort means the bidder must demonstrate that it took necessary and reasonable steps to achieve participation by DBE firms. To remain responsive, a bidder that fails to meet the advertised goal must be able to demonstrate they were actively and aggressively trying to obtain DBE participation sufficient to meet the advertised goal.

Prospective bidders may not apply “pro forma” efforts in meeting the advertised goal. This essentially means the bidder cannot as a formality simply state in their bid that they will meet the published goal without actually conducting the necessary efforts to obtain DBE participation.

Appendix A – GFE requirements

It is the responsibility of the grant recipient to make a fair and reasonable judgment in determining whether a bidder that did not meet the advertised goal made adequate good faith efforts. It is important for the sponsor to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made.

Because the DBE program is not a set aside program, sponsors are prohibited from requiring a bidder to meet the advertised goal as a condition for award of contract. Sponsors may not ignore bona fide good faith efforts made by a bidder that fails to achieve the advertised goal. Sponsors may not deny award of contract to an apparent low bidder who fails to achieve the advertised DBE goal but does demonstrate a good faith effort in trying to obtain DBE participation.

Appendix A to [49 CFR Part 26](#) provides guidance pertaining to good faith efforts. In general, the bidder must demonstrate that they have taken all

necessary and reasonable steps to achieve the identified DBE goal. The bidder should adequately document all such efforts, including contacts of DBE firms that are not interested.

The DBE rule does not quantitatively define what qualifies as a good faith effort. For the most part, this determination is qualitative. Appendix A does identify some actions that sponsors should consider when making determination for good faith efforts.

Instructions to Bidders

To make prospective bidders aware of the requirement for good faith efforts, we encourage sponsors to incorporate language similar to the following within their Instructions-to- Bidders:

Good Faith Efforts

Bidder must demonstrate that they made good faith efforts to achieve participation with DBE firms. This requires that the bidder show that it took all necessary and reasonable steps to secure participation by certified DBE firms. Mere pro forma efforts will not be considered as a good faith effort. Actions constituting evidence of good faith efforts are described in appendix A to 49 CFR Part 26. Such actions include but are not limited to:

- *Soliciting DBE participation through all reasonable and available means. This may include public advertisements and phone calls/faxes/e-mails to known certified DBE firms.*
- *Consult State Department of Transportation office to obtain a list of certified DBE firms.*
- *Selecting portions of work that increases the likelihood that DBE firms will be available to participate*
- *Providing DBE firms with sufficient information and time to review the project plans and specifications.*
- *Documenting all contacts with DBE firms. This includes name, address, phone number, date of contact and record of conversation/negotiation.*

Pre-Bid Meeting

In addition to inserting language addressing Good Faith Efforts within the Instruction-to-bidders, Sponsors should thoroughly discuss the DBE contract goal and required good faith efforts at the pre-bid meeting. Potential bidders should leave this meeting having a complete understanding of



what is required of them in order to comply with the DBE provisions of the contract. This includes discussing the consequences of DBE fraud and actions that may be construed as red flags for DBE fraud.

250 – DBE Contract Provisions

Required Contract Provisions

Sponsors must insert the federal provision regarding DBE in every solicitation that includes AIP participation. This includes both projects with contract goals and projects relying on race/gender neutral means. The latest version of this provision can be found here:

https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/

Other than to insert appropriate sponsor information into the noted spaces, the sponsor should not modify these contract clauses.

260 – DBE Reporting Requirements

Reporting Requirement

AIP Grant recipients with Disadvantaged Business Enterprise (DBE) programs are required by Federal Regulation 49 CFR Part 26 to report annually their DBE commitments, awards and payments. Sponsors have generally accomplished this by completing and submitting the form “Uniform Report of DBE Commitments/Awards and Payments” and the associated DBE contractor participation information form. Both forms are due by December 1st of each calendar year.

Sponsors may now conveniently submit these forms and information on-line using dbE-Connect. dbE-Connect is a web-based automated system for completing the Uniform Report of DBE Awards/Commitments and Payments (Uniform Report) as required by Federal Regulation 49 CFR Part 26.

The dbE-Connect system may be accessed at the following website:

<https://faa.dbeconnect.com/faa/login.asp>

Request access to the dbE-Connect system at the following website:

http://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/FAA_dbE_connect_System_Guidance_for_Airport_Recipients_updated.pdf



270 – Identifying DBE Fraud

Monitoring DBE Participation

AIP Grant recipients with Disadvantaged Business Enterprise (DBE) programs are required to monitor the contract DBE firms to verify the named DBE's are performing a commercial useful function and to confirm proper compensation. Sponsors must be diligent in monitoring contracts to detect fraud indicators.

DBE fraud risks having all associated costs being ruled ineligible under the Airport Improvement Program.

Red Flag Indicators

Listed below are some common indicators that DBE fraud and deceit may be occurring. While the sponsor is ultimately responsible to the FAA, the sponsor's consultant should also be diligent in identifying the following situations:

Bidding Phase

- *Pro Forma* efforts to meet DBE goal. No good faith efforts to seek and obtain available DBE firms.
- Pre-arranged agreements such as DBE firm agrees to be listed in proposal with understanding prime contractor will accomplish work.
- Conditional participation such as "Prime will use a DBE firm contingent upon all material installed by the DBE firm being procured from the prime contractor"
- Pre-arranged agreement between the prime and DBE that artificially inflates the DBE participation
- DBE firm does not have regular employees and equipment.
- DBE firm has little or no experience in the type of work required (e.g. Painting contractor used to perform paving tasks)

Commercial Useful Function (CUF)

The DBE must carry out their contract responsibilities by actually performing, managing, and supervising the work under their subcontract.

A DBE firm is not performing a commercial useful function if their role in the project is that of an extra party in a transaction through which funds are passed through thus giving the appearance of DBE participation

- Supervision of DBE employees is performed by personnel associated with the prime contractor or any other firm or business.
- DBE provides little or no supervision of work.
- DBE's superintendent is not a regular employee of the DBE.
- DBE firm contracts out their work to a non-DBE firm.
- Pass through agreements.
- DBE firm does not schedule work operations, order materials or make managerial decisions.

Equipment

Operation of the equipment must be under the control of the DBE firm. The DBE firm is expected to provide the operator for the equipment and is responsible for payroll and DOL labor compliance requirements.

- Equipment used by the DBE belongs to Prime contractor with no established lease agreement.
- Equipment signs and marking of the DBE firm cover the actual name of the equipment owner.
- A DBE trucking business utilizes trucks owned by the prime contractor

Material

DBE must be responsible for negotiating the cost, arranging delivery and paying for the materials and supplies for the project. The DBE firm is responsible for determining quantity of material and ensuring quality of materials.

- Materials for the DBE are ordered and/or paid for by the prime contractor
- Two party checks from prime to DBE subcontractor and supplier or manufacturer
- Materials or supplies necessary for the DBE firm's performance are delivered to, billed to or paid by another business
- Drop shipments. DBE firm never takes possession of material



Workforce

DBE firm must maintain a regular workforce. DBE firms may not share employees with non-DBE Contractors. The DBE firm is responsible for all payroll and DOL labor compliance requirements.

- Movement of employees between contractors
- Employees paid by both the DBE and the prime contractor
- Employee working for prime in morning and DBE in afternoon
- Materials or supplies necessary for the DBE firm's performance are delivered to, billed to or paid by another business

Consequences of DBE Fraud

Engaging in any of the referenced practices and schemes may result in the following actions:

- a) Loss of AIP eligibility
- b) Immediate suspension of work
- c) Cessation or withholding of project payments
- d) Investigation by the U.S. DOT Office of the Inspector General and/or the U.S. Attorney
- e) Revocation of DBE firm's certification
- f) Debarment of the DBE firm, prime contractor and/or subcontractor
- g) Prosecution of the DBE firm, prime contractor and other parties with knowledge of the fraud and deceit

RESOURCES

Department of Transportation – Office of Inspector General

- [OIG Fraud Hotline](#)