

**CITY OF COACHELLA  
PUBLIC WORKS DEPARTMENT**

**ON-CALL HVAC SERVICES PROJECT 110220**

**BID AND CONTRACT DOCUMENTS**

**CITY OF COACHELLA**  
**NOTICE INVITING BIDS**

**On-Call HVAC Services Project  
No. 110220**

**November 3, 2020**

PUBLIC NOTICE IS HEREBY GIVEN that the City of Coachella, as AGENCY invites sealed proposals for the above stated project and will receive such proposals at the Coachella Corporate Yard Public Works Department located at 53462 Enterprise Way, Coachella CA 92236; up to the hour of **10:00 am, the 1<sup>st</sup> day of December, 2020.**

Proposals must be prepared on the approved proposal forms in conformance with the Instructions to Proposers and submitted in a sealed envelope plainly marked on the outside **“SEALED PROPOSAL On-Call HVAC Services Project DO NOT OPEN WITH REGULAR MAIL.”**

Bidders may obtain a copy of the Specifications and Contract Documents from the City of Coachella Website at [www.coachella.org](http://www.coachella.org), and from the Public Works Department.

Bids must be accompanied by a certified or cashier's check, or a Bid Bond in favor of the City in an amount not less than ten percent (10%) of the submitted Total Bid Price.

The work to be done consists of furnishing all materials equipment, tools, labor, and incidentals as required by the Specifications and Contract Documents for the above stated project.

This contract will be for a one year period, with the option to renew for up to three additional 1 year periods, if approved by the City.

Requests for clarifications, questions and comments must be clearly labeled, “Written Questions” and addressed to **Maritza Martinez, City of Coachella, Public Works Department**. The City is not responsible for failure to respond to a request that has not been labeled as such. All questions must be emailed to Maritza Martinez at [mmartinez@coachella.org](mailto:mmartinez@coachella.org) and be received no later than **5:00 p.m. on Thursday, November 19, 2020.**

In accordance with the California Labor Code the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages according with standards set forth in Section 1773 for the locality in which the Work is to be performed. Any contract entered into pursuant to this notice will incorporate the provisions of the State Labor Code. A copy of said wage rates can be obtained by accessing the Department of Industrial Relations website at:

**NOTICE INVITING BIDS**

[www.dir.ca.gov/DLSR/statistics\\_research.html](http://www.dir.ca.gov/DLSR/statistics_research.html), or by contacting the District Office at 464 West Fourth Street, Room 348, San Bernardino, CA 92401, telephone (909) 383-4334. Each bidder shall be a licensed contractor pursuant to the Business and Professions Code and shall be licensed in the following appropriate classification(s) of contractor's license(s), for the work bid upon, and must maintain the license(s) throughout the duration of the Maintenance Agreement.

The AGENCY reserves the right to reject any or all proposals, to waive any irregularity, to accept any bid or portion thereof, and to take all proposals under advisement for a period of ninety (90) days.

At the time of contract award, the prime contractor shall possess the appropriate contractor's license. All licenses must be in good standing for the previous three (3) consecutive years without any official unresolved record of complaints registered or filed with the California Department of Consumer Affairs or Department of Industrial Relations.

Questions pertaining to the technical aspects of the contract should be directed to **Maritza Martinez (760) 501-8111 or [mmartinez@coachella.org](mailto:mmartinez@coachella.org)**.

**CITY OF COACHELLA  
PUBLIC WORKS DEPARTMENT**

**INSTRUCTIONS TO BIDDERS**

**1. Scope of Work**

The Contractor shall retain professional personnel who have successfully and competently provided municipal facility HVAC maintenance and repair services on projects of similar scope and complexity. It shall be the Contractor's responsibility to develop and implement a routine maintenance program to effectively maintain, to the satisfaction of the City representative, all aspects of HVAC systems in City defined facilities. For the purpose of this contract, routine preventative HVAC maintenance shall be defined as scheduled routine inspection and proactive servicing of HVAC systems so as to facilitate efficient heating/cooling with a minimal downtime. The routine maintenance and all repairs shall be provided in accordance with the highest standards of the industry, skill, workmanship, applicable trade practices, meet warranties and in conformance to all applicable laws, codes and regulations. The successful Proposer's maintenance program and repairs shall, at a minimum, include but not limited to the specifications outlined herein.

- Contractor shall respond to indoor temperature and noise or vibration and provide expeditious correction and keep a record of all complaints and corrections at all City facilities.
- Contractor shall inspect and if needed adjust all HVAC systems to operate at the highest efficiency twice each year, with Seasonal (summer/winter) start-up and run inspections. Results from these inspections shall be documented and provided to the City within 72hrs after inspection.
- Contractor shall inspect all moving parts or components, investigate noises: belts; bearings; drives; and fans, and lubricate and adjust as recommended per manufacturers specifications as part of the biannual inspections.
- Contractor shall be able to perform complete unit replacements if warranted.
- Contractor shall have full-time journeymen-level mechanical personnel.
- All work shall comply in every respect with the Building Laws, City Regulations, Code Requirements (City, State, or International).
- All repair work and work sites will be left in a clean safe and workable condition.
- Contractor shall ONLY repair, replace, upgrade or install work that is instructed.

**2. AVAILABILITY OF CONTRACT DOCUMENTS**

Prospective bidders may obtain a copy on the city website [www.coachella.org](http://www.coachella.org), or at the Coachella Corporate Yard located at 53462 Enterprise Way, Coachella, CA 92236.

**3. EXAMINATION OF CONTRACT DOCUMENTS**

The City has made copies of the Contract Documents available, as indicated above. Bidders shall be solely responsible for examining the Contract Documents, including any Addenda issued during the bidding period, and for informing itself with respect to local labor availability, means of transportation, necessity for security, laws and codes, local permit requirements, wage scales,

**INSTRUCTIONS TO BIDDERS**

local tax structure, contractors' licensing requirements, availability of required insurance, and other factors that could affect the Work. Bidders are responsible for consulting the standards referenced in the Contract. Failure of Bidder to so examine and inform itself shall be at its sole risk, and no relief for error or omission will be given except as required under State law.

#### **4. INTERPRETATION OF CONTRACT DOCUMENTS**

Discrepancies in, and/or omissions from the Specifications or other Contract Documents or questions as to their meaning shall be immediately brought to the attention of the City by submission of a written request for an interpretation or correction to the City. Such submission, if any, must be sent to the attention of Maritza Martinez, Public Works Director, by email at [mmartinez@coachella.org](mailto:mmartinez@coachella.org).

Any interpretation of the Contract Documents will be made only by written addenda duly issued and made available on the city website at [www.coachella.org](http://www.coachella.org). The City will not be responsible for any explanations or interpretations provided in any other manner. Should a Bidder require clarifications, the Bidder shall notify the City in writing.

City shall issue a written addendum clarifying the matter which will be posted on the City of Coachella website <http://www.coachella.org/>. With the exception of oral questions asked at any Pre-Bid Meeting, all questions, clarifications or comments shall be put in writing and must be received by the City no later than **November 19, 2020 at 5pm**. The City will accept requests for clarifications, questions and comments in the following manner: via email to [mmartinez@coachella.org](mailto:mmartinez@coachella.org) clearly addressed in the subject line as follows:

##### **'Written Questions'**

The City is not responsible for failure to respond to a request that has not been labeled as such. Inquiries received after **5pm on November 19, 2020** will not be accepted. Bids shall include complete compensation for all items that are noted in the Contract Documents as the responsibility of the Contractor.

#### **5. ADDENDA**

The City reserves the right to revise the Contract Documents prior to the bid opening date. Revisions, if any, shall be made by written Addenda. All addenda issued by the City shall be included in the bid and made part of the Contract Documents. Pursuant to Public Contract Code Section 4104.5, if the City issues an Addendum which includes material changes to the Project less than 72 hours prior to the deadline for submission of bids, the City will extend the deadline for submission of bids. The City may determine, in its sole discretion, whether an Addendum warrants postponement of the bid submission date. Copies of Addenda will be published on the city website. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. To this end, each bidder should contact the Public Works Department to verify that he has received all Addenda issued, if any, prior to the bid opening.

### **INSTRUCTIONS TO BIDDERS**

## **6. MODIFICATIONS OF BIDS**

Each Bidder shall submit its Bid in strict conformity with the requirements of the Contract Documents. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall neither delete, modify, nor supplement the printed matter on the Bid Forms, nor make substitutions thereon. Oral, telephonic and electronic modifications will not be considered.

## **7. CONTRACT TERM**

The term of the contract will be for a one year term with up to three additional one year term renewals, if approved by the City.

## **8. LICENSING REQUIREMENTS**

Pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, all bidders must possess proper licenses for performance of this Contract. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Section 7028.5 of the Business and Professions Code, the City shall consider any bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Contract Documents to be nonresponsive, and the City shall reject the Bid. The City shall have the right to request, and Bidders shall provide within five (5) calendar days, evidence satisfactory to the City of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract. Please also note that, pursuant to Public Contract Code Section 20676, sellers of "mined material" must be on an approved list of sellers published pursuant to Public Resources Code Section 2717(b) in order to supply mined material for this Contract.

## **9. SIGNING OF BIDS**

All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders may be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

## **10. BID GUARANTEE (BOND)**

Each bid shall be accompanied by: (a) a certified check made payable to the City; (b) a cashier's check made payable to the City; or (c) a bid bond payable to the City executed by the bidder as principal and surety as obligor in an amount not less than 10% of the maximum amount of the bid. Personal sureties and unregistered surety companies are unacceptable. The surety insurer shall be California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The cash, check or bid bond shall be given as a guarantee that the bidder shall execute the Contract if it be awarded to the bidder, shall provide the payment and performance bonds and insurance certificates and endorsements as required herein within ten (10) calendar days after notification of the award of the Contract to the bidder. Failure to provide the required documents may result in forfeiture of the bidder's bid deposit or bond to the City and the City may award the Contract to the next lowest responsive, responsible bidder, or may call for new bids.

## **INSTRUCTIONS TO BIDDERS**

## **11. SUBMISSION OF SEALED BIDS**

Bids may be delivered in person or by other delivery methods. It is the sole responsibility of bidders to ensure that their bids are received at the time and place indicated in the RFP. Late or misdirected bids shall be rejected and unopened without exception. Postmarks are not accepted.

An original and three (3) copies of the proposal shall be submitted for consideration no later than 10 a.m. on December 1, 2020. The proposal shall be submitted and delivered to the below address:

City of Coachella  
Public Works Department  
53462 Enterprise Way  
Coachella, CA 92236

No oral or telephonic bids will be considered. No forms transmitted via the internet, e-mail, facsimile, or any other electronic means will be considered unless specifically authorized by City.

## **12. DELIVERY OF BIDS**

Bids will be received by the City at the address shown in the Notice Inviting Bids up to the date and time shown therein. The City will leave unopened any Bid received after the specified date and time, and any such unopened Bid will be returned to the Bidder. It is the Bidder's sole responsibility to ensure that its Bid is received as specified. Bids may be submitted earlier than the dates(s) and time(s) indicated.

The City may in its sole discretion, elect to postpone the opening of the submitted Bids. City reserves the right to reject any or all Bids and to waive any informality or irregularity in any Bid. In the event of a discrepancy between the written amount of the Bid Price and the numerical amount of the Bid Price, the written amount shall govern.

## **13. WITHDRAWAL OF BID**

Prior to bid opening, a Bid may be withdrawn by the Bidder only by means of a written request signed by the Bidder or its properly authorized representative.

## **14. PROPOSAL REQUIREMENTS**

Proposal requirements respondents should provide complete and current information for the following items:

- A. Fee schedule including hourly rates, unit replacements, material mark-up price and any other fees.
- B. A resume that includes a list of no less than two public agencies or corporate references from customers for whom you have performed frequent or ongoing on-call hvac services in the past three years.
- C. A proposed arrive on-site response time for non-emergency and emergency hvac needs.
- D. Company history and experience in commercial HVAC service and repair as described in the scope of work. Please include information on staff and workforce capacity and skills.
- E. A narrative describing the services to be provided to the city.

## **15. BASIS OF AWARD**

Evaluation committee shall rank written proposals using the scoring system set forth below. An award may be made based on written proposal scores or up to three firms may be called in for interviews. Such interviews would be scored, in general, like the written proposals. Two firms will be awarded contracts for hvac services. Up to two qualified proposals may be awarded.

The rating scale shall be from 1 to 5, with 1 being a poor rating, 3 an average rating, and 5 an outstanding rating. Weighting factors for the criteria are listed adjacent to the qualification.

- Scope of Proposal (1). Does the proposal show an understanding of the City's requirements?
- Assigned Personnel (2). Do the persons who will provide services have the necessary skills, licenses, and certifications?
- Availability (2). Can the contractor respond efficiently to both nonemergency and emergency service requests?
- Motivation & Capability (2). Is the firm interested in providing the requested services? Does the firm and their personnel have the experience needed to complete work efficiently and expeditiously?
- Cost and Work Hours (3). Are hourly rates and other costs reasonable?

## **INSTRUCTIONS TO BIDDERS**



## 16. DISQUALIFICATION OF BIDDERS; INTEREST IN MORE THAN ONE BID

No bidder shall be allowed to make, submit or be interested in more than one bid. However, a person, firm, corporation or other entity that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a subproposal or quoting prices to other bidders submitting a bid to the City. No person, firm, corporation, or other entity may submit subproposal to a bidder, or quote prices of materials to a bidder, when also submitting a prime bid on the same Project.

## 17. INSURANCE REQUIREMENTS

The Contractor shall maintain throughout the duration of the term of the awarded contract, liability insurance covering the Contractor and designating the City including its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants, as additional insured against any and all claims resulting in injury or damage to persons or property (both real and personal) caused by any aspect of the Contractor's work, in amounts no less than the following and with such deductibles as are ordinary and reasonable in keeping with industry standards. It shall be stated, in the Additional Insured Endorsement, that Contractor's insurance policies shall be primary as respects any claims related to or as the result of Contractor's work. Any insurance, pooled coverage, or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. The Additional Insured Endorsement shall not apply to the Professional Liability Insurance.

Professional Liability Insurance (applies only to professional service contract):

a. General Aggregate \$2,000,000

General Liability:

General Aggregate \$2,000,000

Products Comp/Op Aggregate \$2,000,000

Personal & Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

Fire Damage (any one fire) \$ 50,000

Medical Expense (any one person) \$ 5,000

Workers' Compensation:

a. Workers' Compensation Statutory Limits

b. EL Each Accident \$1,000,000

c. EL Disease - Policy Limit \$1,000,000

d. EL Disease - Each Employee \$1,000,000

Automobile Liability

a. Any vehicle, combined single limit \$1,000,000

The Contractor shall provide thirty (30) days advance notice to the City in the event of material changes or cancellation of any coverage. Certificates of insurance and additional insured endorsements shall be furnished to the City thirty (30) days prior to the effective date of the awarded contract. Refusal to submit such certificates shall constitute a material breach of the

## INSTRUCTIONS TO BIDDERS

awarded contract entitling the City to any and all remedies at law or in equity, including termination of the awarded contract. If proof of insurance required under the awarded contract is not delivered as required or if such insurance is canceled and not adequately replaced, the City shall have the right but not the duty to obtain replacement insurance and to charge the Contractor for any premium due for such coverage. The City has the option to deduct any such premium from the sums due to the Contractor. Insurance is to be placed with insurers authorized and admitted to write insurance in California and with a current A.M. Best's rating of A-:VII or better. Acceptance of insurance from a carrier with a rating lower than A-:VII is subject to approval by the City. The Contractor shall immediately advise the City of any litigation and/or open claims that may affect these insurance policies.

The successful bidder shall procure the insurance in the form and in the amount specified in the Contract Documents.

## **18. AWARD PROCESS**

Once all Bids are opened and reviewed to determine the most qualified Bidder, based upon the Evaluation Criteria, the City Council may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the required insurance certificates and endorsements and (2) City Business License. Once the City notifies the Bidder of the award, the Bidder will have ten (10) consecutive calendar days from the date of this notification to execute the Contract and supply the City with all of the required documents and certifications. Regardless whether the Bidder supplies the required documents and certifications in a timely manner, the Contract time will begin to run ten (10) calendar days from the date of the notification. Once the City receives all of the properly drafted and executed documents and certifications from the Bidder, the City shall issue a Notice to Proceed to that Bidder.

## **19. FILING OF BID PROTESTS**

Bidders may file a "protest" of a Bid with the City's Public Works Director. In order for a Bidder's protest to be considered valid, the protest must:

- A. Be filed in writing within five (5) calendar days after the bid opening date;
- B. Clearly identify the specific irregularity or accusation;
- C. Clearly identify the specific City staff determination or recommendation being protested;
- D. Specify, in detail, the grounds of the protest and the facts supporting the protest; and
- E. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, it will be rejected as invalid.

If the protest is valid, the City's Public Works Director, or other designated City staff member, shall review the basis of the protest and all relevant information. The Public Works Director will

## **INSTRUCTIONS TO BIDDERS**

provide a written decision to the protestor. The protestor may then appeal the decision of the Public Works Director to the City Manager.

## **20. WORKERS COMPENSATION**

Each bidder shall submit the Contractor's Certificate Regarding Workers' Compensation form.

## **21. PREVAILING WAGES**

Contractors are advised to consider whether services to be performed include classifications subject to state or federal prevailing wage requirements. California State prevailing wage information is available through the California Department of Industrial Relations website at [http://www.dir.ca.gov.dlsr/statistics\\_research.html](http://www.dir.ca.gov.dlsr/statistics_research.html).

Labor categories subject to prevailing wage requirements, when employed for any work on this project, are wholly the responsibility of the firm or individual named in any Professional Services Agreement approved by the City. City will not assume any responsibility for Contractor's failure to pay prevailing wages in accordance with State law.

## **22. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS**

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the Labor Code. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the City. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

## **23. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES**

Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by the agencies with authority in the jurisdiction in which the work will be located, unless otherwise expressly provided by the Contract Documents.

## **24. EXECUTION OF CONTRACT**

As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The City may require appropriate evidence that the persons executing the Contract are duly empowered to do so.

**END OF INSTRUCTIONS TO BIDDERS**

**INSTRUCTIONS TO BIDDERS**

**BID FORM**

**NAME OF BIDDER:** \_\_\_\_\_

**On-Call HVAC Services Project No. 110220**

For all services described below, unless excluded by the City in description of services below, the City shall consider unit prices below to include all labor, equipment, fees of any kind, overhead, insurance, fuel, materials, surcharges, disposal fees, and any other costs associated with and necessary for the Bidder to perform such service.

**HVAC Repair/Service Rates:**

1. Licensed HVAC Journeyman – Hourly Rate \$\_\_\_\_\_ per hour.
2. HVAC Apprentice– Hourly Rate \$\_\_\_\_\_ per hour.
3. Travel Time (if applicable) \$\_\_\_\_\_ per hour.
4. Materials Cost: Mark-up \_\_\_\_\_ % (expressed as a percentage over cost) Discount \_\_\_\_\_ % (explain circumstances when this would occur – apply in space below).

**Availability**

1. Can the Contractor provide 24-hour “on-call” emergency coverage? Yes\_\_\_\_\_ No\_\_\_\_\_
2. Response time to an emergency call? \_\_\_\_\_
3. Response time for non-emergency request for service? \_\_\_\_\_

The undersigned agrees that this Bid Form constitutes a firm offer to the City which cannot be withdrawn for the number of calendar days indicated in the Bid Documents and after the bid opening, or until a Contract for the Work is fully executed by the City and a third party, whichever is earlier.

The undersigned acknowledges receipt, understanding and full consideration of the following addenda to the Contract Documents.

Addenda No. \_\_\_\_\_

Addenda No. \_\_\_\_\_

Attached is the required bid security in the amount of not less than 10% of the Total Bid Price.

Attached is the fully executed Non-Collusion Affidavit form.

Attached is the completed Designation of Subcontractors form.

Attached is the completed Bidder Information Form.

Attached is the completed Contractor's Certificate Regarding Workers' Compensation form.

I hereby certify under penalty of perjury under the laws of the State of California, that all of the information submitted in connection with this Bid and all of the representations made herein are true and correct.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

CA DIR/Contractor's License #: \_\_\_\_\_

**CONTRACTOR'S CERTIFICATE REGARDING  
WORKERS' COMPENSATION**

I am aware of the provisions of Section 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 that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

**BID BOND**

The makers of this bond are, \_\_\_\_\_, as Principal, and \_\_\_\_\_, as Surety and are held and firmly bound unto the City of Coachella, hereinafter called the City, in the penal sum of TEN PERCENT (10%) OF THE TOTAL BID PRICE of the Principal submitted to CITY for the work described below, for the payment of which sum in 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 Principal has submitted the accompanying bid dated \_\_\_\_\_, 20 \_\_\_\_, for On-Call HVAC Services Project No 110220.

If the Principal does not withdraw its bid within the time specified in the Contract Documents; and if the Principal is awarded the Contract and provides all documents to the City as required by the Contract Documents; then this obligation shall be null and void. Otherwise, this bond will 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 Documents shall in affect its obligation under this bond, and Surety does hereby waive notice of any such changes.

In the event a lawsuit is brought upon this bond by the City and judgment is recovered, the Surety shall pay all litigation expenses incurred by the City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and expenses.

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 corporation.

(Corporate Seal)

\_\_\_\_\_  
Principal

By \_\_\_\_\_

Title \_\_\_\_\_

(Corporate Seal)

\_\_\_\_\_  
Surety

By \_\_\_\_\_

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) ss.  
CITY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
Date Name And Title Of Officer (e.g. "Jane Doe, Notary Public")  
personally appeared \_\_\_\_\_,  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

\_\_\_\_\_  
Signature of Notary Public

NOTE: A copy of the Power-of-Authority to local representatives of the bonding company must be attached hereto.



**DESIGNATION OF SUBCONTRACTORS**

In compliance with the Subletting and Subcontracting Fair Practices Act of the Public Contract Code of the State of California, each bidder shall set forth below: (a) the name and the location of the place of business and (b) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work in an amount in excess of one-half of one percent (1/2%) of the Contractor's Total Bid Price. Notwithstanding the foregoing, if the work involves streets and highways, then the Contractor shall list each subcontractor who will perform work or labor or render service to Contractor in or about the work in an amount in excess of one-half of one percent (1/2%) of the Contractor's Total Bid Price or \$10,000, whichever is greater. No additional time shall be granted to provide the below requested information.

If no subcontractor is specified, for a portion of the work, or if more than one subcontractor is specified for the same portion of Work, to be performed under the Contract in excess of one-half of one percent (1/2%) of the Contractor's Total Bid Price or \$10,000, whichever is greater if the work involves streets or highways, then the Contractor shall be deemed to have agreed that it is fully qualified to perform that Work, and that it shall perform that portion itself.

<b>Portion of Work</b>	<b>Subcontractor</b>	<b>Location of Business</b>

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Dated \_\_\_\_\_

**DESIGNATION OF SUBCONTRACTORS**

**INFORMATION REQUIRED OF BIDDERS**

**NON-COLLUSION AFFIDAVIT**

I, \_\_\_\_\_, being first duly sworn, deposes and says that he is \_\_\_\_\_ of \_\_\_\_\_ the party making the attached bid; that the bid 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 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 contract of anyone interested in the proposed contract; that all statements contained in the bid 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.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Name of Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

## CONTRACT

### CITY OF COACHELLA ON-CALL HVAC SERVICES MAINTENANCE AGREEMENT PROJECT NO. 071217

#### **PARTIES AND DATE.**

This Agreement is made and entered into this [\*\*\*INSERT DAY\*\*\*] day of [\*\*\*INSERT MONTH\*\*\*], [\*\*\*INSERT YEAR\*\*\*] by and between the City of Coachella, a municipal organization organized under the laws of the State of California with its principal place of business at 1515 6<sup>th</sup> Street, Coachella, California 92236, (hereinafter referred to as “City”) and [\*\*\*INSERT NAME\*\*\*], a [\*\*\*INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY\*\*\*] with its principal place of business at [\*\*\*INSERT ADDRESS\*\*\*] (hereinafter referred to as “Contractor”). City and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

#### **RECITALS.**

##### **2.1 Contractor.**

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing [\*\*\*INSERT TYPE OF SERVICES\*\*\*] services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that is familiar with the plans of City.

##### **2.2 Project.**

City desires to engage Contractor to render such services for the [\*\*\*INSERT NAME OF PROJECT\*\*\*] project (“Project”) as set forth in this Agreement.

#### **TERMS.**

##### **3.1 Scope of Services and Term.**

3.1.1 Incorporation of Documents. The “Contract Documents” include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Contractor's Bid Forms
- Contractor’s Certificate Regarding Workers’ Compensation

## CONTRACT

Bid Bond  
Designation of Subcontractors  
Information Required of Bidders  
Non-Collusion Affidavit form  
Contract  
Performance Bond  
Payment (Labor and Materials) Bond  
General Conditions  
Special Provisions (or Special Conditions)  
Technical Specifications  
Greenbook Standard Specifications (Sections 1-9 Excluded)  
Addenda  
Plans and Contract Drawings  
Approved and fully executed change orders  
Any other documents contained in or incorporated into the Contract

The Contactor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

3.1.2 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional [\*\*\*INSERT TYPE OF SERVICES\*\*\*] maintenance services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.3 Term. The term of this Agreement shall be from [\*\*\*INSERT START DATE\*\*\*] to [\*\*\*INSERT ENDING DATE\*\*\*], unless earlier terminated as provided herein. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

### **3.2 Responsibilities of Contractor.**

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor’s exclusive direction and

control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.2.4 City's Representative. The City hereby designates [\*\*\*INSERT NAME OR TITLE\*\*\*], or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.5 Contractor's Representative. Contractor hereby designates [\*\*\*INSERT NAME OR TITLE\*\*\*], or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business

License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.7.1 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services specified in Exhibit "D", attached hereto and incorporated herein by this reference, are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of **[\*\*\*INSERT WRITTEN DOLLAR AMOUNT\*\*\*] Dollars (\$[\*\*\*INSERT NUMERICAL DOLLAR AMOUNT\*\*\*) per day** for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.2.8 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. Contractor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.9 Insurance.

3.2.9.1 Time for Compliance. Contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided

evidence satisfactory to the City that the subcontractor has secured all insurance required under this section.

3.2.9.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: **\*\*\*INSERT AMOUNT - TYPICALLY, \$1,000,000; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF CONTRACT AND RISK TO CITY. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT\*\*\***] per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: **\*\*\*INSERT AMOUNT - TYPICALLY, \$1,000,000; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF CONTRACT AND RISK TO CITY. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT\*\*\***] per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **\*\*\*INSERT AMOUNT - TYPICALLY, \$1,000,000; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF CONTRACT AND RISK TO CITY. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT\*\*\***] per accident for bodily injury or disease.

3.2.9.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

General Liability. The general liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Work or



operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way.

Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.9.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.9.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.9.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.9.7 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.9.8 Reporting of Claims. Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.10 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

### 3.2.12 Bonds.

3.2.12.1 Performance Bond. If specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.12.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.2.12.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.2.12.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

### **3.3 Fees and Payments.**

3.3.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed [\*\*\*INSERT WRITTEN DOLLAR AMOUNT\*\*\*] (\$[\*\*\*INSERT NUMERICAL DOLLAR AMOUNT\*\*\*]) without written approval of City's [\*\*\*INSERT TITLE\*\*\*]. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Contractor shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and

supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. [\*\*\*INSERT "IF" OR "SINCE" AS APPROPRIATE\*\*\*] the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and [\*\*\*INSERT "IF" OR "SINCE" AS APPROPRIATE\*\*\*] the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### **3.4 Accounting Records.**

3.4.1 Maintenance and Inspection. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

### **3.5 General Provisions.**

#### **3.5.1 Termination of Agreement.**

3.5.1.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**CONTRACTOR:**

[\*\*INSERT NAME, ADDRESS & CONTACT PERSON\*\*]

**CITY:**

City of Coachella  
1515 6<sup>th</sup> Street  
Coachella, CA 92236  
Attn: [\*\*INSERT NAME & DEPARTMENT\*\*]

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.4 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.5 Indemnification. Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury, in law or equity, to property or persons, including wrongful death, in

any manner arising out of or incident to any alleged acts, omissions or willful misconduct of Contractor, its officials, officers, employees, agents, consultants, and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and attorneys fees and other related costs and expenses. Contractor shall defend, at Contractor's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its directors, officials, officers, employees, agents, or volunteers. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Contractor shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

3.5.6 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.5.7 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.5.8 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.9 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.5.10 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.5.11 Assignment or Transfer. Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void,

and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.12 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to City include its elected officials, officers,

employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.5.13 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.14 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.5.15 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.16 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.17 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.18 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor,

employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.19 Labor Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the California 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 that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.20 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

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

### **3.6 Subcontracting.**

3.6.1 Prior Approval Required. Contractor shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.



**CITY OF COACHELLA**

**[NAME OF CONTRACTOR]**

**By:**

**By:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Attest:**

\_\_\_\_\_  
License Number

\_\_\_\_\_  
City Clerk

**Recommended By:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**EXHIBIT A**  
**SCOPE OF SERVICES**

**CONTRACT**

**EXHIBIT B**  
**SCHEDULE OF SERVICES**

**EXHIBIT C  
COMPENSATION**

**CONTRACT**

**PERFORMANCE BOND**

**PAYMENT (LABOR AND MATERIALS) BOND**

