



DALLAS
FORT WORTH
INTERNATIONAL
AIRPORT

REQUEST FOR BID – GOODS CONTRACT

Solicitation No. 7006684

Uninterruptable Power Supply Batteries

Bid Opening and Deadline for Bid Submittal:

August 1, 2018 at 2:00 p.m. (Central Time)

Bid Opening Location: DFW Airport Headquarters **(new)**
Southgate Plaza
2400 Aviation Drive **(directions on next page)**
DFW Airport, TX 75261

BIDS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED

DFW Airport Contact:

Cathy Halliburton
972-973-5608 (fax)
challiburton@dfwairport.com

For Bid Package Submittal by Mail or Delivery Service:

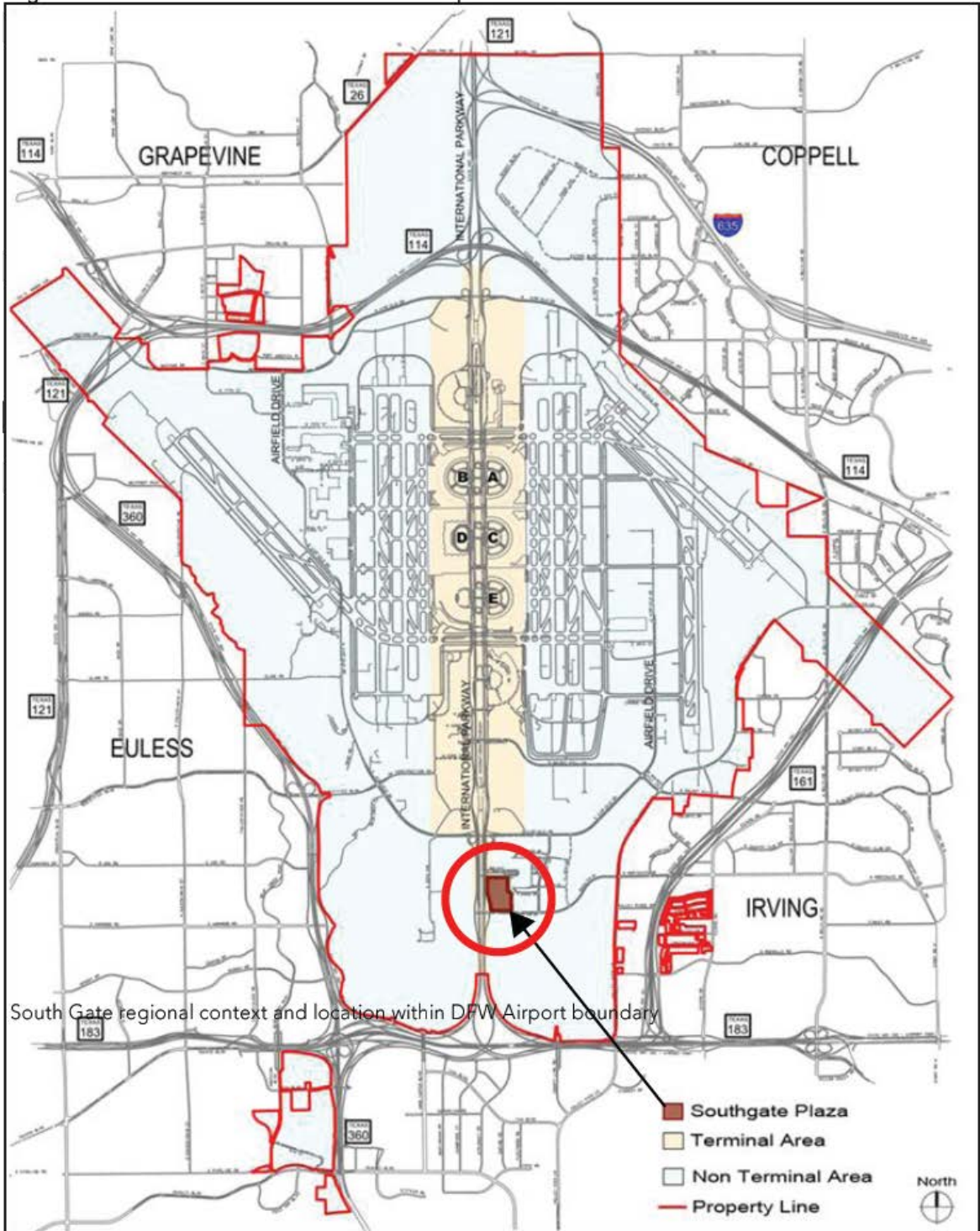
Physical Address: 2400 Aviation Drive
DFW Airport, TX 75261

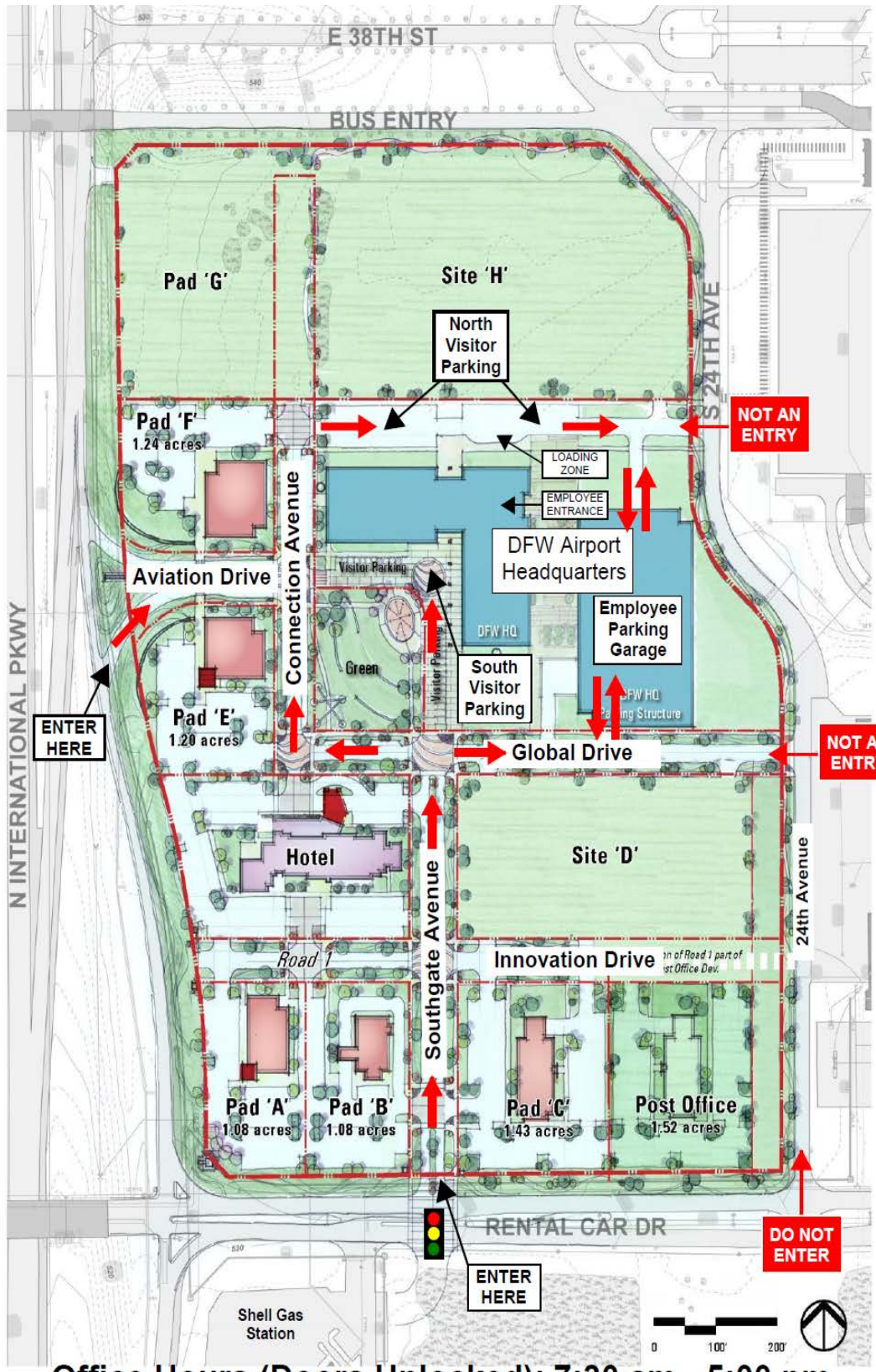
Mail Address: P.O. Box 619428
DFW Airport, TX 75261-9428

A Pre-Bid Conference Will Not Be Held

DFW AIRPORT HEADQUARTERS LOCATION MAP SOUTHGATE PLAZA

Figure 1-1: South Gate Plaza District Location Map





Office Hours (Doors Unlocked): 7:30 am - 5:00 pm

SOLICITATION SUMMARY

1 GENERAL DESCRIPTION

Contract to supply uninterruptable power supply batteries, as-needed, throughout the term of the contract.

2 SCHEDULE OF EVENTS

Please find below a Tentative Schedule of Events for this Solicitation. The Dallas Fort Worth International Airport (Airport) reserves the right to revise the Tentative Schedule of Events as necessary.

Deadline for Questions:..... **July 20, 2018, 5:00 p.m.** (Central Time)

Bid Opening and Deadline for Bid Submittal:..... **August 1, 2018, 2:00 p.m.** (Central Time)

Airport Board Approval Date: **September 6, 2018**

Notice to Proceed..... **September 17, 2018**

3 CONTRACT TERM

One (1) year period, with options to renew for **four (4)** additional **one (1) year** periods

4 SMALL BUSINESS ENTERPRISE (SBE) GOAL

The SBE goal for this contract is 0%.

5 APPLICABLE LAWS

This solicitation is being conducted in accordance with Texas Local Government Code Title 8, Subtitle A, Chapter 252.

Please review all Solicitation Documents CAREFULLY!



FAILURE to comply with Solicitation requirements may result in your Bid being deemed non-responsive without further consideration.

TABLE OF CONTENTS

GENERAL BIDDING INSTRUCTIONS AND REQUIREMENTS

- 1 *Definitions*
- 2 *Contact Information*
- 3 *Pre-Bid Conference*
- 4 *Addenda and Clarifications*
- 5 *Small Business Enterprises*
- 6 *Environmentally Preferable Purchasing*
- 7 *Warranty*
- 8 *Bid Preparation*
- 9 *Submittal of Bids*
- 10 *Non-Compete Agreements*
- 11 *Public Bid Opening*
- 12 *Withdrawing Bids*
- 13 *Bid Award*
- 14 *Contract With The Airport*
- 15 *Certificate of Interested Parties*
- 16 *Special Bidding Instructions and Requirements*

SPECIAL BIDDING INSTRUCTIONS AND REQUIREMENTS

- 1 *Completing the Bid Pricing Form*
- 2 *Additional Bidder Submittals*

EVALUATION OF BIDS

- 1 *Evaluation Criteria*
- 2 *Evaluation Method*
- 3 *Rejection of Bids*
- 4 *Determination of Non-Responsible Bidder*
- 5 *Determination of Non-Responsive Bid*

SPECIFICATIONS / SCOPE OF WORK

- 1 *Purpose*
- 2 *Contractor Requirements*
- 3 *Products*
- 4 *Pricing*
- 5 *Orders*
- 6 *Packaging*
- 7 *Delivery*
- 8 *Returns*
- 9 *Billing*
- 10 *Warranty*

SPECIAL PROVISIONS

- 1 *Contract Term*
- 2 *Anti-Corruption Compliance*
- 3 *Insurance Provisions*
- 4 *Small Business Enterprise Goal*
- 5 *Small Business Enterprise Provisions*

GENERAL TERMS AND CONDITIONS

- 1 *Airport Access and Security*
- 2 *Airport's Right to Inspect and Audit*
- 3 *Assignment*
- 4 *Changes in Contract*
- 5 *Code of Business Ethics*
- 6 *Compliance with Laws*

- 7 *Confidential or Proprietary Information*
- 8 *Contracting Prohibitions: As Required by State Law*
- 9 *Cooperative Purchasing Agreement*
- 10 *Delivery Location*
- 11 *Delivery of Product*
- 12 *Dispute Resolution*
- 13 *Financial Interest*
- 14 *Fiscal Year Funding*
- 15 *Force Majeure*
- 16 *Indemnification and Hold Harmless*
- 17 *Independent Contractor*
- 18 *Jurisdiction*
- 19 *New Material*
- 20 *Non-Discrimination*
- 21 *Non-Compete Agreements*
- 22 *Notice of Delays*
- 23 *Order Process*
- 24 *Personal Liability of Public Officials*
- 25 *Severability*
- 26 *Subletting of Contract*
- 27 *Tax Exemption Status*
- 28 *Termination of Contract: Default And Remedies*
- 29 *Termination of Contract For Airport Convenience*
- 30 *Terms of Payments*
- 31 *Third-Party Beneficiary Clause*
- 32 *Warranty Information*

BID FORMS

1 Bid Preparation Forms

- a. *Bid Submittal Label*
- b. *No Bid Information*
- c. *Workers Compensation Hold Harmless and Indemnification Agreement*

2 Bid Response Forms

- a. *Bid Pricing Summary*
- b. *Cooperative Purchasing Provisions*
- c. *Insurance Review Verification*
- d. *Business Disclosure Form*
- e. *Organizational Summary Information*
- f. *Workforce Composition Form*
- g. *Customer Reference Form*
- h. *Contracting Prohibitions Verification*
- i. *SBE Commitment Forms*
 - 1. *Commitment to Small Business Enterprise (SBE) Participation*
 - 2. *Schedule of Subcontractors (Preliminary)*
 - 3. *Schedule of Subcontractors (Final)*
 - 4. *Intent to Perform Contract as a SBE Subcontractor*
 - 5. *Good Faith Effort Criteria*
 - 6. *Request for Approval of Change to Original Schedule of Subcontractors*
- j. *Anti-Corruption Compliance*
 - 1. *Certificate of Anti-Corruption Compliance*
 - 2. *Foreign Corrupt Practices Act Disclosure Statement*
- k. *Bid Endorsement Form*

3 Bid Response Attachment(s)

- a. *Bid Pricing Form*

GENERAL BID INSTRUCTIONS AND REQUIREMENTS

A Bid is requested by the Dallas Fort Worth International Airport Board (Airport). The Airport will accept separate sealed Bids until the deadline for Bid submittal. Bids received will be publicly opened and read aloud at the time and location indicated in the cover page of this Request for Bid (Solicitation).

1 DEFINITIONS

- 1.1 **Bid or Bid Submittal:** used throughout this document to reference the documents submitted from a Bidding Firm in response to the Request for Bid.
- 1.2 **Bidder, Bidding Firm, or Supplier** may be used throughout this document to reference the firm submitting a Bid.
- 1.3 **Contractor or Successful Bidder** may be used throughout this document to mean a Bidder that is awarded a Contract as a result of this Request for Bid.
- 1.4 **Dallas Fort Worth International Airport Board** may also be referenced throughout this document as DFW Airport Board, DFW Airport, Airport Board, Airport, or Board.
- 1.5 **Request for Bid (RFB) or Solicitation** may be used throughout this document to mean this entire document, which includes details of requirements, and the terms and conditions applicable in a resulting contract.

2 CONTACT INFORMATION

- 2.1 It is the Bidder's responsibility to obtain clarification on any information contained herein.
- 2.2 Bidders must submit all questions or requests for clarification **ONLY** in writing and **ONLY** to the person designated as the DFW Airport Contact for this RFB. ***The Airport may reject the Bid from any Bidder that contacts other Airport personnel for information or clarification on this RFB.***
- 2.3 Prospective Bidders must reference the Solicitation Number in all correspondence pertaining to this Request for Bid.

3 PRE-BID CONFERENCE

- 3.1 If a Pre-Bid conference is held, it shall be held at the time, date, and place identified on the Cover Page of this Request for Bid and shall be open to all interested parties for the purpose of discussing the requirements of the solicitation.
- 3.2 All Prospective Bidders are strongly encouraged to attend.
- 3.3 Bidders that do not attend may be required to provide additional information or documentation to validate that they fully understand the Airport's requirements.
- 3.4 It is the responsibility of the Bidder to fully understand the scope of work and the conditions under which any Work is to be performed. Failure to attend a Pre-Bid conference or request additional information shall not relieve a Successful Bidder from full performance of any resulting Contract to the satisfaction of the Airport.

4 ADDENDA AND CLARIFICATIONS

- 4.1 The Airport may elect to issue changes to the Request for Bid. The Airport will issue changes to the RFB **ONLY** in the form of a written addendum. Other written information or verbal communications, including but not limited to discussion in a Pre-Bid conference, shall not constitute a change to the requirements of the Solicitation.
- 4.2 The Airport will post any addendum issued on the Airport's website (www.dfwairport.com) prior to the deadline to submit Bids. The Airport will also send an email notification to all known Prospective Bidders. In order to receive email notifications, Prospective Bidders are encouraged to alert the DFW Airport Contact that they are interested in submitting a Bid.
- 4.3 It is the Bidder's responsibility to ensure receipt of any addenda issued. The Bidder must sign all addenda and return them with their Bid. Addenda shall become part of the Contract documents.

- 4.4 If the Airport issues a clarification to the RFB, it will be issued separately and will not become part of the final Contract.

5 SMALL BUSINESS ENTERPRISE (SBE)

- 5.1 The Airport strongly encourages certified SBEs to participate in this solicitation and encourages joint venture Bids that include certified SBE firms.
- 5.2 Bidders are directed to review the Special Provision Section of this solicitation for the specific goal for this RFB and important compliance requirements.

6 ENVIRONMENTALLY PREFERABLE PURCHASING

- 6.1 The Airport has adopted environmental purchasing guidelines to ensure that products and services meet its environmental goals. The Airport will give preference (whenever feasible) to products that:
- Cut back on greenhouse gas emissions or are made with renewable energy;
 - Decrease the use of toxins detrimental to human health and to the environment;
 - Contain the highest possible percentage of post-consumer recycled content;
 - Cut back on air, land, and/or water pollution;
 - Reduce the amount of waste they produce;
 - Are reusable or contain reusable parts; and/or
 - Are multifunctional.
- 6.2 The Airport may ask its suppliers to offer environmentally preferable products, work to meet or exceed environmental performance expectations, and/or show documentation of their supply-chain impacts.
- 6.3 The Airport may specify environmentally preferable products and services in the solicitation. Environmentally preferable products and services of similar quality and price to conventional counterparts shall gain a purchasing preference. When the greenest option is not available, is too costly, or impractical, the Airport may then consider how the products are produced, as well as the environmentally and socially responsible management practices of suppliers and producers.

7 WARRANTY

Bidders must include manufacturers' standard warranty for parts and labor in the prices Bid and must meet or exceed any warranty requirement specified herein.

8 BID PREPARATION

- 8.1 Bidder must complete and submit all Bid Response Forms, all addenda, and any other requested information and documentation as part of its Bid.
- 8.2 Completing the Business Disclosure Form:
- List your entire legal business name on the form.
 - If you are a corporation, limited partnership, limited liability partnership or limited liability company, your legal business name should include that designation or an abbreviation of that designation.
 - If the mailing address is the same as the business address write, "same" in the space under mailing address. Do not copy the mailing address or leave blank.
 - Under business structure, check only one box. The next section is filled out only if your company is a corporation.
 - If your business is a corporation, check the box for profit or non- profit, and public or private. These boxes must be checked. If you are an S corporation, professional, parent-sub, or close mark the appropriate box as well.
 - The state, month and year of your company's incorporation, registration or formation needs to be filled in. This is either the date you registered with the county clerk, or filed with the secretary of state.
 - List the names of all owners or partners in the company who hold more than 10%. If the company is publicly owned, list the stock exchange it is traded on and the symbol. If your company is traded

on a foreign exchange, name the foreign exchange it is traded on.

- Fill in names of Joint Venture owners if applicable.
- The percentage of ownership needs to be filled in unless the company is publicly traded. All of the owner's names (who own more than 10%) need to be listed with their corresponding percentages of ownership in this space. Please use whole or half numbers. If the list of owners' percentages do not equal to 100%, you may write: "all others own less than 10%".

- 8.3 Endorsing the Bid: An authorized officer of the Bidding Firm must sign their Bid. Signing the Bid signifies the firm's Bid is valid and that the firm agrees to comply with all requirements set forth in the Solicitation, except where properly documented in the Bid Response Forms. ***The Airport shall reject any unsigned Bid.***
- 8.4 Bid Language / Currency: Bidders must submit their Bid in the English language and Bid pricing must be in United States of America currency.
- 8.5 Freight and Shipping: Unit prices must include the cost to ship all products and materials to the Dallas Fort Worth International Airport, F.O.B. Destination, Freight Prepaid and Allowed.
- 8.6 Tax Exempt Status: Purchases by the Airport are exempt from sales and use tax under Section 151.309 of the Texas Tax Code (Code). In addition, tangible personal property and taxable services purchased by the Contract to resell to the Airport under this Contract may also be exempt from sales and use tax under Code Section 151.302.
- 8.7 Acceptance of Requirements: Bidders must clearly describe on the Bid Response Form, any exception they wish to take to the Airport's Special Provisions, General Terms and Conditions, or Specifications. If the Bidder does not clearly indicate in their Bid that they are requesting an exception, the Airport shall conclude that the Bidder accepts all Special Provisions, General Terms and Conditions, and Specifications as written. If the Airport subsequently awards a Contract to that Bidder based on this conclusion, the Bidder shall be bound to honor his offer and comply with all requirements of the RFB. The Airport will review exceptions requested by Bidders; however, the Airport may decide it is not in its best interest to accept a request for exception and declare the Bid non-responsive. The Airport's decision in this matter shall be final.
- 8.8 Brand Name or Equal: The Airport may reference specific manufacturers and model numbers in the Specifications in order to establish an understanding of the quality and characteristics of products it deems acceptable. Bidders are to consider these references descriptive, not restrictive, unless the reference specifies that no substitutes are allowed. Bidders may offer other makes and models (alternate products) for consideration by following the instructions for offering alternate products.
- 8.9 No Substitute: The Airport may reference specific manufacturers and model numbers with the note "**No Substitute**" in the Specifications. Bidders are required to submit their Bids for the specific manufacturers and model numbers referenced. The Airport will not consider alternate products offered for these items unless the manufacturer has discontinued the referenced product.
- 8.10 Alternate Products: Alternate products are products offered by the Bidder instead of the product specified in the Request for Bid. Suitable alternate products must be equal in quality, design use, operational size and characteristics.
- 8.10.1 If the Bidder does not clearly indicate in their Bid that they are offering an alternate product, the Airport shall conclude that the Bidder is offering the brand name and product model referenced. If the Airport subsequently awards a Contract to that Bidder based on this conclusion, the Bidder shall be bound to provide the brand name and model referenced at the unit price offered in their Bid.
- 8.10.2 If the manufacturer has discontinued a product the Airport has listed in the Specifications, Bidders should so note and propose a suitable alternate product.
- 8.10.3 The Airport will not approve alternate product(s) prior to the deadline to receive Bids. The Airport will evaluate alternate products after all Bids are received and will determine if alternate products are acceptable. The Airport's decision in this matter shall be final.
- 8.10.4 Bidder must note any difference in their alternate product from the product specified in the RFB on the Bid Response Form and attach a document that details the differences in the products. The Airport may

- declare any Bid non-responsive that does not include the required information on an alternate product.
- 8.10.5 Bidders must submit with their Bid a manufacturer's technical data sheet and, if applicable, the safety data sheet (SDS) for the alternate product offered.
- 8.10.6 Bidders proposing alternate products must be prepared, if requested by the Airport, to demonstrate that the alternate products offered are equivalent to the specified products and capable of achieving the desired results. Bidders shall provide such demonstration(s) at their expense in a manner best representative of the requirements to be met and at a schedule convenient to the Airport.
- 8.10.7 Bidders must state in their Bid Submittal if product samples, if requested, are to be returned at the conclusion of the product evaluation process.
- 8.11 Alternate Bids: The Airport shall not accept alternate Bids, defined as additional offers submitted by a Bidder for Airport consideration.
- 8.12 Delivery After Receipt of Order (ARO): Timely delivery is an important factor to the Airport and Bidders must state their delivery lead times in their Bid Submittal. Delivery ARO is that period elapsing from the time the Airport places an order until the Airport receives the order at the specified delivery location.
- 8.13 Confidential or Proprietary Markings: The Airport must comply with the Public Information Act (Texas Government Code Title 5, Subtitle A, Chapter 552).
- 8.13.1 A Bidder must clearly mark any portion of their Bid Submittal that they believe contains confidential or proprietary information, or trade secrets. Bidder should not mark their entire Bid Submittal "Confidential" and/or "Proprietary".
- 8.13.2 Said marking does not guarantee the Airport will not release the information under the Public Information Act or as otherwise required by law.
- 8.13.3 Airport Legal Staff will thoroughly review requests for documents that are marked Confidential and/or Proprietary and, if appropriate, request an opinion from the Texas Attorney General's office prior to releasing documents requested under the Public Information Act.
- 8.14 Cooperative Purchasing Agreement: If the Successful Bidder agrees, the Airport may allow other local governmental entities to participate in the contract, under the same terms and conditions. See General Terms and Conditions for more detail. Bidder's authorized agent must indicate on the Bid Response Form (2B) if Bidder agrees to allow other governmental entities to participate in a Contract, if awarded. Bidders are not required to agree to this provision in order to be considered responsive to the RFB.

9 SUBMITTAL OF BIDS

- 9.1 **The Airport will accept hard copy Bids no later than the Deadline for Bid Submittal stated on the Request for Bid cover page.**
- 9.1.1 Bidders must sign, seal, and deliver Bids to the Airport location stated on the RFB Cover Page.
- 9.1.2 **The Airport will not consider unsigned, unsealed or late Bids.**
- 9.1.3 The Airport will **not** consider Bids submitted by email, facsimile or other electronic means.
- 9.1.4 The Bidder must address their sealed Bid Submittal to the attention of the PMM Department and clearly indicate the Solicitation Number and Bid Opening Date and Time. See the Bid Forms Section of this Solicitation for label that may be used.
- 9.2 Bids must be valid for at least ninety (90) days after Bid Opening day and time.
- 9.3 The Airport has provided Bid Preparation and Response Forms as a part of this RFB package. Bidders may find electronic versions of the forms on the Airport's website under Business Opportunities, Solicitation Schedules (<http://www.dfairport.com/business/solicitations/index.php>), or upon request.
- 9.4 Bidders must fully complete all forms, sign as applicable, and submit the following with their Bid.
- Request for Bid Cover Page
 - All Bid Response Forms

- All Addenda released by the Airport for this RFB.
- Any additional information or documentation requested under the Special Instructions Section.

9.5 ***The Airport may declare a Bid non-responsive if the Bidder fails to properly complete and include all required documents and information in their Bid Submittal.***

9.6 Bids submitted are final and are not negotiable; therefore, Bidder must provide their best and final pricing in their Bid response.

10 NON-COMPETE AGREEMENTS

By submission of a Bid or the execution of a contract, Bidder/Contractor agrees that the Airport shall not be bound by any non-compete agreements or similar agreements that inhibit the Airport's right to award and execute a contract to any company that submits a Bid or proposal to the Airport.

11 PUBLIC BID OPENING

11.1 The Airport will open all Bids properly received in a public meeting and read the Bids aloud. The meeting location (identified on the Cover Page of this Request for Bid) is accessible. The public may request special accommodations or interpretive services up to 48 hours prior to meeting by contacting the person identified as the DFW Airport Contact on the Cover Page of this RFB.

11.2 Bid tabulations will be available once Bid evaluations are complete.

12 WITHDRAWING BIDS

12.1 A Bidder, by submitting a Bid, warrants and guarantees that they carefully reviewed the Bid and it is in all things true and accurate. If a Bidder subsequently discovers a material mistake in their Bid, they may request to withdraw their Bid from consideration.

12.2 To withdraw a Bid, the Bidder must submit a request in writing to the Vice President of Procurement and Materials Management (PMM VP).

12.2.1 The request to withdraw a Bid must state the reason for withdrawal request.

12.2.2 Any request made after the Bid opening time must include the details of the material mistake made.

12.3 If a Bidder requests to withdraw their Bid before the Bid opening time, and the PMM VP or Designee accepts the request to withdraw, then the Airport will return the Bid to the Bidder unopened.

12.4 If a Bidder requests to withdraw their Bid after the Bid opening time, and the PMM VP or Designee accepts the request to withdraw, then the Airport shall declare the Bid null and void and it may not be reinstated as a valid Bid thereafter.

13 BID AWARD

If the Airport awards a Contract as a result of this Solicitation, the selection of the Successful Bidder will be based on the evaluation criteria detailed in the Evaluation of Bids section of this RFB.

14 CONTRACT WITH THE AIRPORT

14.1 A Bid, when accepted by the Airport, constitutes a Contract between the Airport and the Successful Bidder. Acceptance may take the form of an Acceptance Letter or Purchase Order issued by the Airport, or a Contract document issued by the Airport and executed by both parties, followed by a Notice to Proceed issued by the Airport. Each of these forms constitutes a legal contract equally binding between the Successful Bidder and the Airport. After Bid acceptance, no different or additional terms shall become part of the Contract without a properly executed change order.

14.2 If the Airport awards a Contract, the documents listed below shall be made a part of the contract, in the order of precedence listed. The documents listed shall constitute the entire Contract between the parties.

- Accepted Exceptions, if applicable
- Addenda, if applicable
- Solicitation Specifications

- Special Provisions
- General Terms and Conditions
- Contractor's Bid Response Forms

14.3 Bidders are required to review all the terms, conditions and contract provisions contained in this Request for Bid to ensure they concur with and can comply with all requirements.

15 CERTIFICATE OF INTERESTED PARTIES

Effective January 1, 2016, all contracts approved by the Airport Board will require completion of Form 1295 "Certificate of Interested Parties" pursuant to Texas Government Code Section 2252.908. Contractors awarded an Airport Board approved contract, change order, amendment or renewal will be required to submit a signed copy of the completed Form 1295 to the Airport at the time the Contractor submits the signed contract to the Airport. Information regarding how to use the filing application is available on the Texas Ethics Commission website. Please visit https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm for more information.

16 SPECIAL BIDDING INSTRUCTIONS AND REQUIREMENTS

In case of conflict between General and Special Bidding Instructions and Requirements, Special Bidding Instructions and Requirements shall prevail.

END OF GENERAL BIDDING INSTRUCTIONS AND REQUIREMENTS SECTION

SPECIAL BIDDING INSTRUCTIONS AND REQUIREMENTS

1 COMPLETING THE BID PRICING FORM

- 1.1 **Bidder must complete this form and submit with their bid.**
- 1.2 **Bidding Firm: Bidders must** fill in the blank at the top of the form with the name of their company.
- 1.3 **DFW Product Detail Section:** Bidders must not alter any information provided in the Airport Product Detail Section.
 - 1.3.1 **Item #:** Sequential numbering of all bid items
 - 1.3.2 **UPS Battery Manufacturer:** The manufacturer of the product/item desired. See General Bid Instructions and Requirements, Section 8.8 through 8.10.
 - 1.3.3 **UPS Battery Part Number:** The part number of product/item desired. See General Bid Instructions and Requirements, Section 8.8 through 8.10.
 - 1.3.4 **Estimated Annual Quantity:** These are historical order quantities during a recent one-year period and/or estimated future annual quantities. These quantities will be used to calculate bid totals and are not guarantees of future orders.
 - 1.3.5 **Unit of Measure (UOM):** This is the unit of measure used for the items in the Airport Central Warehouse. The Airport orders and issues the products using the UOM stated for each item listed. The estimated quantity is based on this UOM.
 - 1.3.6 **Allowance for Similar Items** is an allowance for purchase of products not specifically listed on the Bid Pricing form. This is an estimated dollar amount to be used for bid evaluation purposes.
- 1.4 **Bidder Response (Product Offering and Price) Section (highlighted in green):** **Bidders must complete this section.**
 - 1.4.1 **Manufacturer:** **Bidder must complete this field**, indicating the Manufacturer of the product offered. If Bidder is not offering a bid for that item, Bidder must so indicate by entering “NB” in this field. No information in this field will also be considered a “no bid”.
 - 1.4.2 **Part Number:** **Bidder must complete this field**, indicating the Manufacturer part number of the product offered. No information in this field will be considered a “no bid”.
 - 1.4.3 **Price per Each:** **Bidder must complete this field**, indicating the bid price for each of the product offered. Remember price must include all costs. No price in this field or pricing based on anything other than Bidder’s Packaging will cause an error in the Bid Calculations and result in the offering for this item to be deemed “non-responsive”.
 - 1.4.4 **Delivery ARO in Calendar Days:** **Bidder must complete this field**, indicating how many calendar days it would take the Bidder to deliver the product after receipt of order. No information in this field will result in the offering for this item to be deemed “non-responsive”.
 - 1.4.5 **% Discount Off List Price for Similar Items:** **Bidders must complete this field**, indicating the discount from list price they will offer to the Airport for other products they can provide similar to the products listed. No response will be considered 0% discount from list and so calculated in the total.
- 1.5 **Bid Calculations (highlighted in blue):** Bidders must not alter any calculations in this Section. This section is designed for bid comparison purposes and to arrive at a bid total for evaluation purposes. Bidders should immediately report any calculation errors they may discover in this section to the Airport Contact indicated on the cover page of this Request for Bid.
 - 1.5.1 **Bid Evaluation Extended Price:** This formula multiplies the Bid Price per Each by the Estimated Annual Quantity in the DFW Product Detail Section.
 - 1.5.2 **Calculation of discounts for similar products** offered by the Bidder; the Airport’s estimated amount will be reduced by the discount offered by the Bidder and included in the category total.

2 ADDITIONAL BIDDER SUBMITTALS

Bidders must provide information and documentation, as requested in the General Bidding Instructions and below, with their Bid Submittal. The Airport intends to review this information to validate the Bidders' ability and capacity to meet the requirements of this RFB.

- 2.1 **Safety Data Sheets:** for all applicable products offered
- 2.2 **Current Manufacturer's Catalog Price List**
- 2.3 **Letter from manufacturer(s) stating that Bidder is an authorized distributor of the products offered.**
- 2.4 **Customer References:** Bidders must provide, on the form provided herein, information on at least four (4) companies for whom their firm has provided similar products under recent contracts, including contact information for the responsible person at each company. By submitting a Bid, the Bidder authorizes the Airport to contact the references provided in order to understand the scope of the contract and the Bidder's contract performance.
- Bidder must provide the following information for each reference:
- Company: Name of company
 - Location: City and State in which referenced company operates
 - Contact Information: Name, title, telephone number and e-mail address
 - Products Provided: General description of product lines Bidder provided to referenced company
 - Volume: Frequency and volume of orders (approximate)
 - Value: Total value of sales under the contract (approximate)
 - Contract Period: Contract start and ending date (month and year)
- 2.5 **Reporting:** The Airport requires periodic reports from the Successful Bidder. Bidders must describe their reporting capabilities and report formats.
- 2.6 **Customer Service:** Bidders must provide information on average delivery time after receipt of order, on time delivery record, returns policy, percentage of deliveries that are returned (in whole or part), and program for resolving customer issues.
- 2.7 **Bidder must provide the following information for Value-Added Programs**
- 2.7.1 **Payment Processing Methods:** Bidders must describe their payment process methods that are available to the Airport, if awarded a contract. Please include credit cards and summary billing methods.
- 2.7.2 **Sustainability and Social Responsibility Initiatives:** Bidders must submit, on a separate sheet of paper, information on their firm's sustainability and socially responsible initiatives and current practices, including but not limited to: recycling, availability of green alternatives in their product line, and inclusion of Small Business Enterprises (SBEs) or Minority/Women Business Enterprises (MWBEs) in their supply chain.

END OF SPECIAL BIDDING INSTRUCTIONS AND REQUIREMENTS SECTION

EVALUATION OF BIDS

1 EVALUATION CRITERIA

- 1.1 Bids submitted are final and not negotiable.
- 1.2 The Airport shall evaluate Bids based on the following:
 - Price;
 - Compliance with the specifications, including, but not limited to completeness and submittal of all required information and forms; and
 - Responsibility of Bidder
- 1.3 The Airport reserves the right to evaluate and award a Contract or Contracts as follows:
 - Evaluate total extended pricing for all items and award to one Bidder;
 - Evaluate total extended pricing by item, section or category and award to multiple Bidders;
 - Evaluate by item, sections or categories of items, and award a primary Contract to one Bidder and secondary Contract(s) to one or more Bidders;
 - Evaluate and make partial or no award of items (see Rejection of Bids).
- 1.4 The Airport shall select the evaluation and award option that serves its best interest and the decision shall be final.

2 EVALUATION METHOD

2.1 Tabulation of Bids Received:

- 2.1.1 The Airport will tabulate Bids based on the unit price(s) Bid and estimated annual quantities shown in the Bid Pricing Form, including allowance for items not specifically listed. In the case of conflict between unit prices and extended prices, unit prices shall prevail.
- 2.1.2 If the Airport elects to evaluate and award to one Bidder, a Bidder must provide a valid offer on at least eighty percent (80%) of the items listed on the Bid Pricing Form in order to be considered responsive. If the Airport elects to evaluate and award by category, the Airport will consider the 80% ratio by individual category.
- 2.1.3 The Airport may deem Bidder pricing invalid on any item that does not meet specifications, does not comply with Bid Submittal Form requirements, contains obvious errors, or lacks sufficient information. The Airport will consider invalid item offers "No Bid" for evaluation purposes.
- 2.1.4 **No Bid Items:** *For evaluation purposes ONLY*, the Airport will calculate "No Bid" items as follows:
 - 2.1.4.1 Pricing for "No Bid" items will be calculated using the highest valid price received for that item.
For example: Bid pricing received for an item is (Bidder 1) No Bid; (Bidder 2) \$1.00; (Bidder 3) \$1.25, (Bidder 4) \$1.50; and (Bidder 5) \$2.00; then the Airport will use the price of \$2.00 for the unit price of the "No Bid" item to calculate Bid totals.
 - 2.1.4.2 If an item listed does not receive a valid offer from any Bidder, that item will be removed from the list and will not be considered for evaluation purposes, including conformance with Section 2.1.2, above.
- 2.1.5 **Percent Discount Off List Price:** The Airport shall consider the Bidder's percent discount off list price for similar items not specifically listed, based on the stated allowance, in determining the lowest responsive, responsible Bidder(s).

2.2 Product Evaluation:

The Airport reserves the right to:

- Ask any or all Bidders for clarification or additional information;
- Request product samples;

- Visit the Bidders facility; and/or
- Conduct necessary investigations to determine (a) if the product and/or service offered meets the Board's requirements, (b) the quality and reliability of the Bidder's performance, and/or (c) to determine the accuracy of the Bid information.

2.3 **Tie Bids:** In the event of a tie Bid, where price, responsiveness, responsibility and all other factors are equal, as solely determined by the Board, the Airport may elect to either: (a) award contracts to all companies with a tied Bid or; (b) the tied Bidders will be notified and invited to attend a meeting where the tie will be broken by drawing lots. If no Tie Bidder representatives are able to attend the meeting, the Airport will perform the drawing of lots before two or more impartial witnesses.

3 REJECTION OF BIDS

3.1 The Airport shall automatically reject any Bid submitted after the Deadline for Bid Submittal and return it unopened to the Bidder.

3.2 Until a Contract is executed, the Airport reserves the right to reject any or all Bids, to waive technicalities, to re-advertise, to decline to proceed or to otherwise proceed with procurement of goods and services herein defined by other method(s) allowed by law and in the best interests of the Airport.

4 DETERMINATION OF NON-RESPONSIBLE BIDDER

The Airport may disqualify a Bidder as non-responsible and not consider that Bidder's Bid Submittal for reasons including but not limited to the following:

- 4.1 If the Airport has reason to believe collusion exists among the Bidders;
- 4.2 If the Bidder, their subcontractor or supplier is in litigation with the Airport, the city of Dallas, or the city of Fort Worth, or where such litigation is contemplated or imminent, in the sole judgment of the Airport;
- 4.3 If the Bidder is in arrears on payment due the Airport or has defaulted on a previous Contract;
- 4.4 If the Bidder lacks competency to perform the contract based on pertinent factors, including but not limited to, experience, capacity, and financial stability, in the sole judgment of the Airport;
- 4.5 If the Bidder or their contractor failed to perform in a satisfactory manner on a previous Airport Contract, in the sole judgment of the Airport;
- 4.6 If the Bidder thereof has failed to disclose a potential conflict of interest or is discovered to have a conflict of interest in accordance with the Airport's Code of Business Ethics;
- 4.7 If the Bidder, or individual officer/principal of the Bidder, or Subcontractor is under criminal indictment or been convicted of a criminal offense.

5 DETERMINATION OF NON-RESPONSIVE BID

The Airport may disqualify a Bid as non-responsive and not consider that Bid Submittal for reasons including but not limited to the following:

- 5.1 If the Bid shows any omissions, alterations of form, additions, or conditions not called for, unauthorized alternate Bids, or irregularities of any kind, in the sole determination of the Airport;
- 5.2 If the Bid is not signed;
- 5.3 If there exists an unbalanced value of any items;
- 5.4 If the Bid does not meet specifications;
- 5.5 If the Bid does not comply with the General and Special Bidding Instructions and Requirements;
- 5.6 If the Bid does not contain all requested/required documents and submittals.

END OF EVALUATION OF BIDS SECTION

SPECIFICATIONS / SCOPE OF WORK

1 **PURPOSE:** To establish a Contract for the annual supply of uninterruptable power supply (UPS) batteries in support of the operation and maintenance of the Dallas Fort Worth International Airport (Airport).

2 CONTRACTOR REQUIREMENTS

2.1 Contractor must be an authorized dealer/reseller of products offered.

2.2 **Reporting:** Contractor shall provide meaningful reports on the Airport's purchase history on a quarterly basis, or as requested by the Airport. Contractor shall collect data and report on information including, but not limited to:

- Manufacturer/Part Numbers
- Part Description
- Order Date
- Delivery Date
- Order Quantity
- Quantity Delivered
- Price

2.3 **Customer Service:** Contractor shall appoint a representative to the Airport account that will assist the Airport with emerging needs and partner with the Airport on strategic initiatives, such as online ordering, JIT delivery, etc.

3 PRODUCTS

3.1 All batteries must meet OEM specifications, including but not limited to the following:

3.1.1 Voltage

3.1.2 Capacity

3.1.3 Terminal pattern, if any

3.1.4 Chemistry (e.g. lead acid)

3.1.5 Sealed or unsealed

3.1.6 Dimensions

3.1.6.1 Length

3.1.6.2 Width

3.1.6.3 Height

3.1.6.4 Total height with terminals

3.1.7 Internal resistance

3.1.8 Self-discharge

3.1.9 Charge voltage

3.2 The products that will be available for the Airport to purchase shall include the items specifically listed on the Bid Pricing Form (Contract Item) and products of a similar nature.

3.3 All items delivered under this contract shall be new and without defect.

- 3.4 The Contractor shall furnish upon request the exact product stated on the Bid Pricing Form under the Bidder Response columns titled "Manufacturer" and "Part Number". If there is no information in these columns, the Contractor shall furnish the product stated on the Bid Pricing Form under the Airport Product Detail column titled "Manufacturer/Part Number".
- 3.5 If a manufacturer discontinues a Contract Item, the Contractor shall immediately notify the Airport Contract Administrator to request approval of a substitute item. Contractor may not substitute a product without prior approval.
- 3.6 The Airport reserves the right to order other items of a similar nature to those specifically listed herein, based on the Contractor's discount from manufacturer's list price and under the same terms and conditions of this Contract.
- 3.7 The Contractor shall be responsible for the pickup, recycling or proper disposal of the batteries
 - 3.7.1 Contractor shall pickup replaced batteries at the DFW Airport's Salvage Yard
 - 3.7.2 It is estimated that battery pickup may be as often as every week and Contractor should base the pricing on weekly pickup of replaced batteries
 - 3.7.3 The Contractor shall work with the Airport Salvage Yard representative in establishing a pickup schedule.

4 ENVIRONMENTAL

- 4.1 The Contractor shall be responsible for the proper handling and disposal of the batteries that are being replaced
 - 4.1.1 The Contractor shall provide the name, address, and telephone number of the approved recycling or disposal site.
 - 4.1.1.1 The Airport's preference is for the used batteries to be recycled if possible.
 - 4.1.2 The Contractor is responsible for insuring that the disposal or recycling site is permitted by the appropriate regulatory agencies, such as the Federal EPA or the Texas Commission on Environmental Quality.
 - 4.1.3 The Contractor shall indemnify the Airport for improper disposal of these batteries.

5 PRICING

- 5.1 The Contractor shall sell the Contract Items to the Airport at the unit price offered on the Bid Pricing Form (base price). See exception in Section 4.2, below.
 - 5.1.1 Unit prices represent the total cost to the Airport for that item, inclusive of all costs such as transportation, fuel surcharges, freight charges, supervision, employee salaries and benefits, overhead and profit.
 - 5.1.2 The Contractor cannot increase pricing during the initial term of the Contract. See Special Provisions for pricing in Contract renewal periods.
 - 5.1.3 The Contractor will invoice the Airport for product ordered and delivered in US dollars.
- 5.2 The Contractor shall sell similar products not specifically listed on the Bid Pricing Form to the Airport at list price, less discount as stated on the Bid Pricing Form for the product category.

6 ORDERS

- 6.1 **Frequency:** The Airport will place orders as needed to meet its operational requirements throughout the Contract period.
- 6.2 **Method:** The Airport shall order products under this Contract either by purchase order issued by the Procurement office, through online ordering (if available and approved), or directly by telephone or in

person by authorized Airport Staff.

- 6.2.1 **Estimated Quantities:** The estimated annual usage stated on the Bid Pricing Form represents annual order estimates based on historical use and projections; however, the Airport may purchase more or less than projected and makes no guarantee and assumes no liability if actual quantities ordered are less than estimated.

7 PACKAGING

- 7.1 Contractor must deliver parts ordered in packaging that will protect the part from damage.
- 7.2 Contract must clearly label the outer shipping package with the purchase order number or name of person that placed the order.
- 7.3 Contractor must clearly label individual part packaging with the manufacturer and part number.

8 DELIVERY

- 8.1 Contractor shall be liable for any physical damage to the UPS equipment which can be traced back to the battery.
- 8.2 Contractor shall ship all products and materials to the Dallas Fort Worth International Airport, F.O.B. Destination, Freight Prepaid and Allowed.
- 8.3 Contractor shall deliver orders within the number of calendar days stated on the Bid Pricing Form.
- 8.4 The Contractor shall deliver orders to the Airport location specified at the time of order.
- 8.5 Acceptable delivery methods include drop shipment and local delivery trucks.
- 8.6 The Airport will accept partial deliveries unless otherwise noted at the time of order.
- 8.7 Contractor shall immediately contact the person that placed the order if they cannot deliver an order as promised.

9 RETURNS

- 9.1 Items delivered which fail to meet OEM specification will be returned to the Contractor. Contractor shall be responsible for all expenses incurred in returning these items.
- 9.2 Contractor shall accept returns from the Airport on unused parts ordered under this Contract.
- 9.3 Contractor shall issue the Airport a full purchase price credit for all returns.

10 BILLING

- 10.1 Contractor shall include the Contract Number and the Purchase Order Number (if applicable) on invoices.
- 10.2 Contractor shall include the Contract Line Number as listed on the Bid Pricing Form, on any invoice for Contract Items.
- 10.3 Contractor shall include the following on any invoice for items not specifically listed on the Bid Pricing Form: list price, discount (per Contract), adjusted price, extended price based on adjusted price times quantity delivered.

11 WARRANTY

- 11.1 The Contractor shall provide a pro-rated warranty of no less than five years, or longer if the manufacturer provides a warranty terms in excess of five years, for each battery delivered.
- 11.1.1 Contractor shall provide warranty information with its bid submittal
- 11.1.2 Warranty shall cover normal UPS service
- 11.1.3 All batteries delivered shall have a permanent delivery date stamp, which will be the start date for the

warranty.

- 11.1.4 All batteries delivered shall have a manufacturer's date no more than three (3) months prior to the delivery date.
- 11.2 Products furnished under this Contract shall be fully warranted against defects in material and workmanship.
- 11.3 Contractor shall support manufacturer warranties and promptly replace parts that fail during the warranty period.

END OF SPECIFICATIONS / SCOPE OF WORK

SPECIAL PROVISIONS

1 CONTRACT TERM

- 1.1 This Contract, if awarded, shall be for an **initial one (1) year period**, commencing as of the date specified in the Notice to Proceed letter, to be issued by the Airport's Vice President of Procurement and Materials Management Department (PMM VP), and end after the initial Contract period, unless renewed under the provisions below.
- 1.2 This Contract, as executed, shall include the **options to renew for four (4) additional one (1) year periods**, under the same terms and conditions, with said options to be exercised solely at the Airport's discretion.
- 1.3 The Airport may allow adjustments to contract pricing for the years subsequent to the initial contract period, if requested by the Contractor as outlined below.
 - 1.3.1 The requested price increase may not exceed the maximum percentage or rate stated in the Contract.
 - 1.3.2 To request a price increase, the Contractor must:
 - Present the request to the PMM VP in writing;
 - Submit the request no less than 90 days prior to the end of the current contract period; and
 - Submit supporting documentation from the manufacturer with the request.
 - 1.3.3 The Contractor and the Airport may agree to price decreases at any time during the term of the Contract.
 - 1.3.4 The Airport will review the request for price adjustments and, if allowed, will document the revised pricing agreement with a Change Order to the Contract effective at the start of the next renewal period.
 - 1.3.5 Unless otherwise amended in writing and endorsed by both parties prior to the beginning of each respective renewal period, all terms and conditions of the Contract shall remain in full force and effect with the only change being in the Contract term.
- 1.4 Limited Notice to Proceed: The Airport reserves the right to issue a Limited Notice to Proceed (LNTP) prior to Contract execution. The purpose of the LNTP is to allow the Contract Awardee time to mobilize or otherwise prepare to start work in order to meet Airport deadlines, such as hiring staff or executing related subcontracts. The LNTP shall define the work authorized; however, the Airport will not make payment on work authorized by a LNTP until the Contract is executed. Fully-executed subcontract agreements are due within thirty (30) business days after the Airport issues the LNTP to the Contract Awardee.

2 ANTI-CORRUPTION COMPLIANCE

- 2.1 Contractor represents and warrants that it has not taken and will not take any action that would constitute a violation of the U.S. Foreign Corrupt Practices Act ("FCPA") and/or any anti-corruption law and/or regulation of any country for which the Contractor conducts services for the Board. In furtherance of the FCPA compliance obligations, at no time during the term of the Contract, will the Contractor pay, offer, give or promise to pay or give, any monies or any other thing of value, directly or indirectly to: (a) any officer or employee of any government, or any department, agency or instrumentality of any government; (b) any other person acting for, or on behalf of, any government, or any department, agency or instrumentality of any government; (c) any political party or any official of a political party; (d) any candidate for political office; (e) any officer, employee or other person acting for, or on behalf of, any public international organization; or (f) any other person, firm, corporation or other entity at the suggestion, request or direction of, or for the benefit of, any of the foregoing persons. Contractor represents and warrants that: (i) it is not owned or controlled by, or otherwise affiliated with, any government, or any department, agency or instrumentality of any government; and (ii) none of its respective officers, directors, principal shareholders or owners is an official or employee of any government or any department, agency or instrumentality of any government.
- 2.2 Contractor agrees to complete a Certificate of Anti-Corruption Compliance, included herein, attesting adherence to certain provisions of this Contract and return such completed Certificate to the Board upon

execution of this Contract and prior to December 31st of each calendar year of this Contract thereafter. Failure to timely complete and return the Certificate of Anti-Corruption Compliance is grounds for immediate termination of this Contract.

- 2.3 Contractor agrees to indemnify and hold harmless the Board from and against any and all cost, expense, claims, damage, or liability arising out of or resulting from or occurring in connection with a breach of this Section, in accordance with the terms of Section 12 of the General Terms and Conditions of this Contract.
- 2.4 Notwithstanding any other provisions contained in this Contract, if Contractor breaches any of the covenants set forth in this Section
 - 2.4.1 The Board may immediately terminate this Contract;
 - 2.4.2 The Board shall have a right of action against Contractor for the amount of any monetary payment or thing of value made or given by Contractor in breach of any of the above-mentioned covenants;
 - 2.4.3 All obligations of the Board to pay Contractor fees pursuant to this Contract shall cease forthwith; and
- 2.5 The Board may, at its sole discretion, rescind this Contract and Contractor shall immediately return to the Board all payments previously received by Contractor from the Board pursuant to this Contract.

3 INSURANCE PROVISIONS

3.1 DEFINITIONS FOR INSURANCE PROVISIONS

- “We”, “us”, or “our” means the Dallas Fort Worth International Airport Board.
- “You” or “your” means the vendor, contractor, tenant, consultant, engineer, architect, and their agents, servants, employees, or other party to a contract with us.
- “Contract” means the contract, purchase order, Invitation for Bid, or similar memorandum or agreement.
- For purpose of defining Additional Insured and Waiver of Subrogation, the term “Dallas Fort Worth International Airport Board (the Board) and the Cities of Dallas and Fort Worth, Texas” (the Cities) shall also mean the elected officials, boards, officers, employees, agents and representatives of the Board and the Cities.

3.2 GENERAL REQUIREMENTS

- 3.2.1 You shall, at your own expense, maintain in effect not less than the following coverages and limits of insurance, which you shall maintain with insurers. If your coverage fails to comply with these requirements, you agree to amend, supplement or endorse the existing coverage to comply, at no additional cost to us, and to maintain such insurance through the end of the contract, warranty period, or other specified time period, whichever is longer. ANY deviation from the requirements outlined below requires the prior written approval of the Board’s Assistant Vice President of Risk Management.
- 3.2.2 All required policies must be written through a company approved to transact that class of insurance business in the State of Texas, with a minimum rating of ‘A -’, and ‘VII’ by A. M. Best Company. If the rating of any insurer should fall below this standard, you shall cause the policy to be replaced promptly by an acceptable insurer.
- 3.2.3 All policies, except policies for workers’ compensation, professional liability and pollution liability, shall designate the below mentioned parties as “Additional Insureds”.
“Dallas Fort Worth International Airport Board and the Cities of Dallas and Fort Worth, Texas”
- 3.2.4 All required policies shall waive the insurer’s right of recovery or subrogation against the Board and the Cities.
- 3.2.5 If any policy is in excess of a self-insured retention (SIR), the amount of such SIR must be clearly identified. We reserve the right to reject any SIR exceeding \$100,000.
- 3.2.6 All required policies must be primary with respect to coverage provided for the Board.
- 3.2.7 All required policies must be non-contributory with other coverage or self-insurance available to the Board.

3.2.8 All required Liability policies, except Pollution & Professional, must be written on an “Occurrence Form.” Neither “Modified Occurrence” nor “Claims-Made” policies are acceptable, and the Contractor will be in contractual default if your insurance is “Modified Occurrence” or “Claims Made.” If the Pollution or Professional Liability policy is Claims-Made, the Retroactive Date must be on or before the contract date or the date of the Contractor’s first professional service to the Board, your first exposure to pollutants, or first work that may give rise to a pollution liability claim, related to our contract.

3.2.9 All required liability policies must cover cross-suits between insureds

3.2.10 All required liability policies must contain a “severability of interests” provision.

3.3 REQUIRED COVERAGE AND LIMITS

3.3.1 **Workers’ Compensation Texas Statutory Coverage**
Employer’s Liability Insurance.....\$500,000 Each Accident
\$500,000 Each Disease, Each Employee
\$500,000 Each Disease Policy Limit

3.3.1.1 All employees, leased or co-employees, independent contractors, and employees of subcontractors and vendors, occupants of the building as tenants, sub-tenants or sub sub-tenants, performing work for the Board, or entering upon the Board’s premises, must be covered by Texas Workers’ Compensation.

3.3.1.2 If Contractor is a sole proprietorship without employees and which will not be using any subcontractor(s) in the performance of the Contract Work, it may substitute the following for workers compensation insurance: The Contractor must provide the Board's Risk Management Department (Risk Management) with a Hold Harmless and Indemnification Agreement in the form attached in the “Proposal Response Forms” section.

3.3.2 **Commercial General Liability (CGL)**
Limit Any One Occurrence \$1,000,000
Damage to Rented Premises \$100,000
Personal and Advertising Injury..... \$1,000,000
Policy Aggregate \$2,000,000
Products and Completed Operations Aggregate \$2,000,000

3.3.2.1 CGL coverage applies unless you provide only trucking, (no premises or operations other than driving, loading/unloading), or garage operations, (see below).

3.3.2.2 Aggregate limits of General Contractors or construction contracts General Liability policies shall be “per project” or “per location,” as appropriate. If any aggregate limit is reduced by 25% or more by reserved and/or paid claims, the contractor must notify the Board and promptly reinstate the required aggregates.

3.3.2.3 If the contractor’s operations involve excavation, grading, filling, backfilling, road or similar construction, General Liability policy shall not contain exclusions for subsidence or earth movement.

3.3.2.4 If the contractor’s operations involve any construction, General liability policy shall not contain exclusions for hazards of explosion (“X”), collapse (“C”) or underground (“U”)..

3.3.2.5 If the contractor’s operations involve any construction, reconstruction, repair or similar work, General liability policy shall not contain any exclusion for such work.

3.3.3 **Business Automobile Liability**
Combined Single Limit for Each Accident\$500,000

3.3.3.1 Coverage must apply to all vehicles (owned, non-owned, or hired) operating on our site/location, or transporting our people or property off our site, except vehicles operated by you or your employee(s) commuting in personal vehicles to our parking facilities, in which case you must only

carry Employer's Non-Ownership coverage, (same limit), and ensure that such vehicle(s) are personally insured.

3.3.3.2 Auto pollution liability coverage is required on vehicles hauling hazardous cargo.

3.3.3.3 If your operations are solely a garage (vehicle maintenance and repair), you must carry Garage Liability, instead of Business Auto Liability, but the Garage Liability must not be limited to auto liability only, and the same limit applies.

3.4 **ADDITIONAL COVERAGE AND LIMITS THAT MAY BE REQUIRED as needed for specific contracts. Note that additional limits may be required if warranted by exposure.**

3.4.1 **Pollution Liability Insurance (if exposure to pollutants) \$1,000,000**

3.4.1.1 If you have any exposure to asbestos, lead, mold, (including any work that could, if not performed properly, lead to mold or fungal contamination), petroleum products, contaminated soils, or other pollutants, you shall provide appropriate Pollution Liability or Environmental Impairment insurance.

3.4.1.2 If the Pollution Liability policy is Claims-Made, the Retroactive Date must be on or before the contract date or the date of the contractor's first exposure to pollutants, or first work that may give rise to a pollution liability claim, related to our contract.

3.5 **ADDITIONAL REQUIREMENTS**

3.5.1 If you are a crane/rigging operator or will hoist or move property of others in connection with our contract, you must have 'care, custody & control' exclusion deleted from your Commercial General Liability policy, or provide Rigger's Liability coverage at least equal to the highest replacement cost of materials to be hoisted or moved.

3.5.2 If your vehicles carry materials belonging to others in connection with our contract, you must carry Cargo Liability coverage, at least equal to the highest value of property to be carried on a single vehicle, with terminal coverage at least equal to the highest value of property at one terminal, owned or controlled by you.

3.5.3 If you will store, warehouse, or otherwise have custody of property belonging to others in connection with our contract, you must have Warehousemen's Liability, Bailee's Customers' Goods, Garage-Keeper's Legal Liability or equivalent coverage at least equal to the highest value of property in your custody.

3.5.4 If our contract calls for you to construct a structure, you must purchase and maintain "All-Risk" Builders Risk insurance for the full completed value of the structure and contents, including all changes and sufficient limit to fund full and immediate reconstruction under adverse conditions. This policy shall name **Dallas Fort Worth International Airport Board** as Loss Payee, as their interest may appear.

3.5.5 If you transport materials, equipment, machinery or furnishings to, or store such property on, our construction site, you must carry an "All-Risk" Installation Floater with coverage at least equal to the greatest concentration of value, (including the cost of transit, installation labor and testing).

3.5.6 If you use rented equipment or tools on our job site or premises, you must carry Rented Equipment coverage sufficient to repair or replace damaged equipment.

3.5.7 If your work involves administration of Airport Funds, you must furnish a Third Party Fidelity Bond that must remain in effect for the term of the contract, as modified and/or extended. The Board shall be named as "Obligee".

3.5.8 Should this Contract require the use of Subcontractors, it will be the sole responsibility of the General Contractor to either endeavor to require Subcontractors to provide and maintain the insurance limits and coverages required herein or provide said insurance coverage for the subcontractor by designating the Subcontractor as an additional insured either by a blanket additional insured endorsement, or by specific endorsement.

- 3.5.8.1 The General Contractor shall endeavor to verify that such Subcontractors are in compliance with all contractual insurance requirements.
- 3.5.8.2 The General Contractor shall assume all liability for those Subcontractors who do not meet the insurance requirements.
- 3.5.8.3 Access to the Air Operations Area will not be granted without verification of insurance coverage as required.

3.6 CERTIFICATION OF INSURANCE

- 3.6.1 Upon execution of the contract or prior to commencement of work, whichever is first, you shall provide your contract administrator with a current insurance certificate by emailing your certificate to dfwcoi@dfwairport.com, with your contract number and business name in the subject line. Please copy your contract administrator on email submissions. You shall cause your insurance data to be kept current with DFW Board for the period of time you are liable for your product or work, but not less than through the warranty period of our contract.
- 3.6.2 Fax or e-mail insurance certificates to the following:
 - Email: dfwcoi@dfwairport.com**
 - FAX: (972) 973-5651**
- 3.6.3 You further agree, upon our oral or written request, to furnish copies of certificates of insurance, certified by an authorized representative of the insurer(s), within ten (10) days of request.
- 3.6.4 You shall provide to the Board's Risk Management department, at least thirty (30) days prior to cancellation, except ten (10) days for non-payment of premium of cancellation of any required coverage. You shall then arrange acceptable alternate coverage to comply with our requirements and provide an updated insurance certificate.
- 3.6.5 No policy submitted shall be subject to limitations, conditions or restrictions that are inconsistent with the intent of the Insurance Requirements to be fulfilled by you. The Board's decision thereon shall be final.
- 3.6.6 Approval, disapproval or failure to act by the Board regarding any insurance obtained by you shall not relieve you of full responsibility or liability for damages and accidents as set forth herein. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate you from liability.
- 3.6.7 No special payment, except when separate line item is provided, shall be made by the Board for any insurance that the Contractor may be required to carry; all are included in the Contract amount and the Contract unit prices.

4 SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION GOAL

The specific SBE goal for this Contract is 0% of the value of the Contract. The Contractor may meet or exceed this goal through SBE participation, including any change orders and/or modifications throughout the term of this Contract. SBE participation is a contractual commitment upon execution of the Contract. Contractors with SBE commitments shall comply with the Airport's SBE Provisions.

Note: * If the SBE Goal is 0% and no SBE is proposed, note the forms as "Not Applicable".

5 SMALL BUSINESS ENTERPRISE (SBE) PROVISIONS

5.1 GENERAL REQUIREMENTS

- 5.1.1 It is the policy of the Dallas Fort Worth International Airport Board of Directors ("Board") to support the growth and development of small business enterprises that can successfully compete for Airport prime contracting and subcontracting opportunities.
- 5.1.2 A "Contractor" is defined as one who participates, through a contract or any other contractual agreement in an Airport-funded contract opportunity. For purposes of these Provisions, a Contractor

is one who seeks to do business with the Board by submission of a Bid or proposal on any such contract or subcontract. A Contractor includes but is not limited to a Contractor, consultant, or vendor.

- 5.1.3 It is the policy of the Board to ensure non-discrimination in the award and administration of Board Contracts. Consequently, the Contractor must fully comply with the requirements of the Board's Small Business Enterprise Program Policies and Administrative Procedures in proposing and performing hereunder.
- 5.1.4 The Contractor 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 the Board's Policies. 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 Board deems appropriate. The Contractor shall insert an Article containing all of the provisions of this Section, including this paragraph, in all subcontracts hereunder, except altered as necessary for the proper identification of the contracting parties and the Board under this Contract.
- 5.1.5 The Business Diversity & Development Department ("BDDD") is responsible to ensure compliance with the Board's SBE Policy and Administrative Procedures. BDDD has the mission to proactively facilitate and maximize business and capacity building opportunities for SBEs by collaborating with internal customers and implementing effective innovative programs and approaches for prime and subcontracting opportunities.
- 5.1.6 The Contractor specifically agrees to comply with all applicable provisions of the Board's SBE Policy and Administrative Procedures and any amendments thereto. SBE and Non-SBE subcontractors also agree to comply with all applicable provisions of the Board's SBE Policy and Administrative Procedures ("Policies").
- 5.1.7 The Contractor shall maintain records, as specified in the Audit and Records Section of the Special Provisions in the contract, showing:
 - 5.1.8 Subcontract/supplier awards, including awards to SBEs;
 - 5.1.9 Specific efforts to identify and award such Contracts to SBEs, such as when requested, copies of executed contracts with SBEs to establish actual SBE project participation.

5.2 ADMINISTRATIVE REQUIREMENTS

- 5.2.1 All Contractors are charged with knowledge of and are solely responsible for complying with each requirement of the Policies making a Bid and, if awarded a contract, in performing the work described in the contract documents. These instructions are intended only to generally assist the Contractor in preparing and submitting a compliant Bid. Should any questions arise regarding specific circumstances, Contractors must consult with the BDDD office at 972-973-5500.
- 5.2.2 The Contractor shall appoint a high-level official to administer and coordinate the Contractor's efforts to carry out its SBE contractual commitments.
- 5.2.3 The Contractor agrees to submit monthly reports of payments and subcontract and/or supplier awards to SBEs and Non-SBEs in such form and manner and at such times as the Board shall prescribe.
- 5.2.4 The Contractor shall provide BDDD access to all books, records, accounts and personnel in accordance with the Audit and Records section of these Special Provisions. Such access will be used for, among other purposes, determining SBE participation and compliance with the Policies. All Contractors may be subject to interim and post-contract SBE audits. Audit determination(s) regarding Contractor's compliance with the SBE Policies may be considered and have a bearing on consideration of the Contractor for award of future Contracts.

5.3 GOALS AND GOOD FAITH EFFORTS

- 5.3.1 Each Contractor must comply with the terms and conditions of the Policies in making its Bid or proposal and, if awarded the Contract, in performing all work thereunder. A Contractor's failure to comply with any Rules or Regulations promulgated pursuant thereto, or any additional requirements contained herein may render a Bid or proposal non-responsive and may constitute cause for rejection.

- 5.3.1.1 Responsive; compliance with requirements. If a Bid/proposal meets the contract-specific goal or shows an adequate good faith effort in accordance with the Policies, then BDDD shall notify the procuring department to regard the Bid/proposal as responsive.
- 5.3.1.2 Non-Responsive; failure to meet requirements. If a Bid/proposal subject to a contract-specific goal does not meet the goal or show an adequate good faith effort, or provide the necessary documentation or forms outlined in the Policies, then BDDD shall notify the procuring department to regard the Bid/proposal as non-responsive. Such determination shall result in no further consideration of the Bid/proposal by the Airport.
- 5.3.1.3 *Informal meeting.* If BDDD finds the Bid/proposal non-responsive in accordance with the above, the non-responsive Bidder/proposer may request an informal meeting with the Vice President or designee within two (2) business days from the date that the Airport notifies the Bidder/proposer of the inadequacy of the proposal. Such meeting shall be scheduled by BDDD. All deficiencies in the Bid/proposer shall be explained to the Bidder or proposer at such meeting after which the Bidder/proposer shall be allowed to clarify the original documentation submitted. BDDD will at no time, however, allow additional information, documentation, certification certificates, subcontractors, joint venturers, suppliers, manufacturers, manufacturer's representatives or brokers that may later be added to the contract or to the original participation submitted at the time of the Bid or proposal to be counted toward meeting of the project goal. If after this informal meeting the Vice President still finds the Bid or proposal to be non-responsive, the Vice President or designee's decision shall stand with no further consideration.
- 5.3.2 Under the Policies, BDDD has established a contract-specific goal for this Contract. The specific goal for this Contract is stated in the Advertisement and Invitation to Bid. In order to comply with the proposal requirements, a Contractor must either meet the SBE contract-specific goal or demonstrate that the Contractor has made sufficient good faith efforts to meet the Contract goal. If the Contractor will not meet the SBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to BDDD that it has made good faith efforts to meet the SBE goal. This good faith effort documentation must be submitted with the Contractor's Bid or proposal.
- 5.3.3 A Contractor cannot require exclusive subcontracting or teaming arrangements or agreements with subcontractors.
- 5.3.4 For Contracts awarded using the procurement methods of Indefinite Delivery, Job-Order-Contract, Construction Management-at-Risk or Design Build, the Vice President of BDDD may determine the requirements to address the Contract goal by means of a Compliance Plan for utilization of SBEs on such Contract, or for alternative demonstration of good faith efforts by the Proposer. The development, scope and utilization of such compliance plans shall be addressed in a separate document.
- 5.3.5 In evaluating a Contractor's good faith efforts submission, BDDD will only consider those documented efforts that occurred prior to the good faith effort submission.
- 5.3.6 The submission of good faith efforts documentation is a matter of responsiveness and shall include a specific response to each of the following factors with the Bid or proposal. In addition, a Contractor may supplement its responses to include any additional information with the Bid or proposal the Contractor believes may be relevant. Failure of the Contractor to demonstrate adequate good faith efforts as to any one of the following categories shall render the overall good faith showing insufficient and the Bid/proposal non-responsive. The required SBE good faith efforts are set forth below:
- 5.3.6.1 Whether the contractor/vendor/Bidder conducted market research to identify small business contractors and suppliers and solicit through all reasonable and available means the interest of all certified D/S/M/WBEs that have the capability to perform the work of the contract. This may include attendance at any pre-Bid or pre-proposal meetings to discuss subcontracting and supplier opportunities (acceptable documentation shall include copies of the meeting sign-in sheets with contractor name noted as signed-in) and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all D/S/M/WBEs listed in the State and/or Local respective directories of firms that specialize in the areas of work desired (as noted in the D/S/M/WBE directory) and which are located in the area or surrounding areas of the project.

- 5.3.6.2 Whether the contractor/vendor/Bidder advertised in general circulation, trade association, and/or D/S/M/WBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations).
- 5.3.6.3 Whether the contractor/vendor/Bidder should solicit this interest as early in the acquisition process being at least five (5) business days prior to Bid opening as practicable to allow the D/S/M/WBEs to respond to the solicitation and submit a timely offer for the subcontract. The Bidder/proposer should determine with certainty if the D/S/M/WBEs are interested by taking appropriate steps to follow up initial solicitations at least three (3) business days prior to Bid opening to determine with certainty whether the DBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if Bidder/proposer failed to make contact on its first attempt).
- 5.3.6.4 Whether the contractor/vendor/Bidder selected portions of the work to be performed by D/S/M/WBEs in order to increase the likelihood that the D/S/M/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate D/S/M/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates D/S/M/WBE participation.
- 5.3.6.5 Whether the contractor/vendor/Bidder provided interested D/S/M/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract. The ability or desire of a contractor/vendor/Bidder to perform the services of a contract with its own workforce does not relieve the contractor/vendor/Bidder of the responsibility to meet the contract goal or demonstrate good faith efforts to do so (The Bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for D/S/M/WBEs to Bid/quote).
- 5.3.6.6 Whether the contractor/vendor/Bidder negotiated in good faith with interested D/S/M/WBEs. It is the Bidder's/proposer's responsibility to make a portion of the work available to D/S/M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available D/S/M/WBE subcontractors and suppliers, so as to facilitate D/S/M/WBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of D/S/M/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for D/S/M/WBEs to perform the work.
- 5.3.6.7 Whether the contractor/vendor/Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including D/S/M/WBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using D/S/M/WBEs is not in itself sufficient reason for a Bidder's/proposer's failure to meet the contract D/S/M/WBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Bidder/proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from D/S/M/WBEs if the price difference is excessive or unreasonable.
- 5.3.6.8 Whether the contractor/vendor/Bidder did not reject D/S/M/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of Bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the D/S/M/WBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Bidder/proposer or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

- 5.3.6.9 Whether the contractor/vendor/Bidder prime contractor's inability to find a replacement D/S/M/WBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original D/S/M/WBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement D/S/M/WBE, and it is not a sound basis for rejecting a prospective replacement D/S/M/WBE's reasonable quote.
- 5.3.6.10 Whether the contractor/vendor/Bidder make efforts to assist interested D/S/M/WBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- 5.3.6.11 Whether the contractor/vendor/Bidder make efforts to assist interested D/S/M/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- 5.3.6.12 Whether the contractor/vendor/Bidder effectively uses the services of available minority/women community organizations; minority/women contractors' groups; Local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of D/S/M/WBEs.
- 5.3.6.13 Whether the contractor/vendor/Bidder in determining whether a Bidder/proposer has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, DFW will review the performance of other Bidders/proposers in meeting the contract goal. For example, when the apparent successful Bidder/proposer fails to meet the contract goal, but others meet it, DFW may reasonably raise the question of whether, with additional efforts, the apparent successful Bidder/proposer could have met the goal. As provided in §26.53(b)(2)(vi), the Bidder must submit copies of each D/S/M/WBE and non-D/S/M/WBE subcontractor quote submitted to the Bidder when a non-D/S/M/WBE subcontractor was selected over a D/S/M/WBE for work on the contract to review whether D/S/M/WBE prices were substantially higher; and contact the D/S/M/WBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to D/S/M/WBEs requesting Bids are not alone sufficient to satisfy good faith efforts under the rule.
- 5.3.6.14 Whether the contractor/vendor/Bidder promise to use D/S/M/WBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.
- 5.3.7 BDDD will review not only at the different kinds of efforts that the Contractor has made but also the quantity and intensity of those efforts. Efforts that are merely pro-forma are not good faith efforts to meet the goal, even if they are sincerely motivated. BDDD will also consider if, given all relevant circumstances, the Contractor's efforts could reasonably be expected to produce a level of SBE participation sufficient to meet the goal.
- 5.3.8 Whether or not the contract-specific goal has been met and/or whether there were sufficient good faith efforts is considered a matter of the Contractor's responsiveness. The requirement to submit documentation that the goal has been met or good faith documentation in the manner prescribed by BDDD is considered a matter of the Contractor's responsiveness. The Board will only award Contracts to Contractors determined to be responsive and responsible. If a Contractor fails to submit good faith efforts documentation with the Bid or proposal, it waives the right to appeal the good faith efforts decision. The Vice President of BDDD or designee shall be responsible for determining whether the Contractor made the required good faith effort to meet the SBE Contract goal and, if not, shall recommend that the Contractor be deemed non-responsive.
- 5.3.9 If a Contractor desires a review of the Vice President of BDDD's decision, it shall file a written request for final reconsideration within five (5) business days after receipt of the decision to the Reconsideration Official:
- Executive Vice President
Administration & Diversity
P.O. Box 619428
DFW Airport, TX 75261

As part of the reconsideration, the Contractor will have the opportunity to provide written documentation or argument concerning the issue of good faith.

5.3.10 The Contractor has a continuing obligation as a covenant of performance to meet the SBE utilization to which it committed at Contract award, inclusive of change orders, amendments, and modifications. If the Contractor during Contract performance must replace a SBE for any reason, it must follow the provisions herein governing the substitution of SBEs and make documented good faith efforts to meet its original SBE contractual commitment.

5.3.10.1 Such good faith efforts during Contract performance must include, but are not limited to:

- Solicitation of SBEs that are certified in the applicable area of work or specialty;
- Providing interested SBEs with adequate information about the plans, specifications, scope of work and requirements of the Contract;
- Fairly investigating and evaluating the interested SBEs' regarding their capabilities, not rejecting SBEs as unqualified without sound reasons based on a thorough investigation, and providing verification, including a statement giving the Contractor's reasons for its conclusion, that it rejected each non-utilized SBE because the SBE was not qualified. Qualifications must be based on factors other than solely the amount of the SBEs Bid;
- Negotiating in good faith with interested SBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested SBEs and providing written documentation why the Contractor and any of the SBEs contacted did not succeed in negotiating an agreement; and
- Effectively using the services of available small, minority and women community organizations; chambers and contractor groups; local, State, and Federal business assistance offices, and other organizations that provide assistance in the identification of SBEs

5.3.10.2 A Contractor determined not to have made continuing good faith efforts to meet its SBE contractual commitments may request an administrative review and final reconsideration by the Vice President of BDDD. The Contractor may elect to meet in person to discuss whether the Contractor made continuing good faith efforts in accordance with the Policies. BDDD's determination shall be final.

5.4 COUNTING SBE PARTICIPATION

5.4.1 BDDD will evaluate each Bid or proposal to determine the responsiveness of the Bid or proposal to the SBE requirements. In determining if a Contractor's committed levels of participation meet or exceed the solicitation's SBE goal, BDDD shall base its determination solely on the information provided in the Bid or proposal document.

5.4.2 Unless otherwise specified in the solicitation, all Bids or proposals for the provision of Indefinite Delivery or Job-Order-Contracts for a period of time and with no delineation of the dollar amount for specific on-call projects, the Contractor shall submit only the anticipated overall percentage of SBE contractual commitment and post award, submit a completed Compliance Plan for review and approval by the Vice President of BDDD.

5.4.3 If a joint venture is proposed to meet the contract-specific goal or any portion thereof, the total value of the distinct and clearly defined portions of the work of the Contract that the SBE will perform with its own workforce; reflect its capital contribution, control, management and profits; and for which it is at risk will be counted.

5.4.4 When calculating participation levels, percentages and dollar amounts for each SBE, the Contractor cannot round up in determining whether or not the total of these amounts meets or exceeds the contract-specific goal.

5.4.5 An SBE must be certified as an SBE by a Board-approved entity and have a place of business in the Airport's market area at the time of Bid or proposal submission to be counted towards meeting the contract-specific goal. Other certifications are not acceptable.

5.4.6 Post award, the Contractor may count towards its SBE contractual commitment a SBE that is certified during the performance of the Contract if the SBE is added to the Contract or substituted for a SBE pursuant to section herein.

- 5.4.7 The Contractor may not count toward its SBE contractual commitment the dollar value of work performed by a SBE after it has ceased to be certified as a SBE, except where the SBE is no longer certified because it has exceeded the size standard per the SBE Policies.
- 5.4.8 SBE prime Contractors can count their self-performance toward meeting the contract-specific goal, but only for the scope of work and at the percentage level they will self- perform.
- 5.4.9 When a SBE participates in a Contract, the Contractor shall count only the value of the work actually performed by the SBE toward SBE goals.
- 5.4.10 A Contractor cannot count toward the SBE contractual commitment amounts paid to an affiliate subcontractor, as defined in 49 C.F.R. Part 16.5
- 5.4.11 The Contractor shall count the entire amount of that portion of a Contract (or other Contract not covered by this section) that is performed by the SBEs own work forces. The Contractor may count the cost of supplies and materials obtained by the SBE for the work of the Contract, including supplies purchased or equipment leased by the SBE (except supplies and equipment the SBE subcontractor purchases or leases from the prime Contractor or its affiliate).
- 5.4.12 The Contractor shall count toward the SBE goals the entire amount of fees or commissions charged by a SBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of an Board Contract, provided it determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- 5.4.13 When a SBE subcontracts part of the work of its Contract to another firm, the value of the subcontracted work may be counted towards the SBE goal only if the SBE's subcontractor is itself a SBE. Work that a SBE subcontracts to a non-SBE firm does not count toward SBE goals.
- 5.4.14 The Contractor will count expenditures to a SBE subcontractor towards the SBE goal only if the SBE is performing a commercially useful function on the Contract.
- 5.4.14.1 A SBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the materials, and installing (where applicable) and paying for the materials itself. To determine whether a SBE is performing a commercially useful function, the Contractor must evaluate the amount of the work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing, the SBE credit claimed for its performance of the work, and other relevant factors.
- 5.4.14.2 A SBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of SBE participation. In determining whether a SBE is such an extra participant, the Contractor must examine, among other relevant factors, similar transaction, particularly those in which SBEs do not participate.
- 5.4.14.3 If a SBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Contract with its own work forces, or the SBE subcontracts a greater portion of the work of a Contract then would be expected on the basis of normal industry practice for the type of work involved, the Contractor must presume that it is not performing a commercially useful function.
- 5.4.14.4 When a SBE is presumed not to be performing a commercially useful function as provided in this section, the SBE may present evidence to rebut this presumption. BDDD may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.
- 5.4.15 The Contractor shall use the following factors in determining whether a SBE trucking company is performing a commercially useful function:

- 5.4.15.1 The SBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract, and there cannot be a contrived arrangement for the purpose of appearing to meet the SBE goal.
- 5.4.15.2 The SBE must itself own and operate at least one fully licensed, insured and operational truck used on the Contract.
- 5.4.15.3 The SBE shall receive credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- 5.4.15.4 The SBE may lease trucks from another SBE, including an owner-operator who is certified as a SBE. The SBE who leases trucks from another SBE shall receive credit for the total value of the transportation services the lessee SBE provides on the Contract.
- 5.4.15.5 The SBE may also lease trucks from a non-SBE, including from an owner-operator. The SBE who leases trucks from a non-SBE is entitled to a credit only for the fee or commission it receives as a result of the lease arrangement. The SBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a SBE.
- 5.4.15.6 For purposes of this paragraph, a lease must indicate that the SBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the SBE, so long as the lease gives the SBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the SBE.
- 5.4.16 The Contractor shall count expenditures to SBEs for materials or supplies towards the SBE goal as follows:
- 5.4.16.1 SBE Manufacturer
- If the materials or supplies are obtained from a SBE manufacturer, count one hundred percent (100%) of the cost of the materials or supplies towards the SBE goal.
 - For purposes of this paragraph, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- 5.4.16.2 SBE Regular Dealer
- If the materials or supplies are purchased from a SBE regular dealer, count sixty percent (60%) of the cost of the materials or supplies towards the SBE goal.
 - For purposes of this section a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.
- 5.4.17 With respect to materials or supplies purchased from a SBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commission charges for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, towards the SBE goal, provided the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. However, the

Contractor shall not count any portion of the cost of the materials and supplies themselves toward SBE goals.

- 5.4.18 If a SBE subcontractor is not certified at the time of the execution of the Contract, supplemental agreement or subcontract, the Contractor may not count the firm's participation towards the SBE goal until the firm is certified. Additionally, the Contractor shall not count the dollar value of work performed under a Contract with a firm after it has ceased to be SBE certified, except where the SBE is no longer certified because it has exceeded the size standard per the SBE Policy and administrative procedures.
- 5.4.19 The Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract goal, in its sole discretion.
- 5.4.20 BDDD will count SBE participation where the SBE or joint venture partner performs a portion of work on the Contract and the percentage of ownership or equity of the SBE in joint venture. BDDD will allow the joint venture to count the portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the work of the Contract that the SBE joint venture partner performs with its own forces toward the SBE commitment and for which it is at risk.
- 5.4.21 The Contractor shall not count the participation of a SBE subcontractor toward the goal until the amount has been actually paid to the SBE.
- 5.4.22 The following expenditures to SBE firms may also count toward the SBE goal:
 - 5.4.22.1 The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Board to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 5.4.22.2 The fees charged for delivery of material and supplies required on a job site (but not the cost of materials and supplies themselves) when the hauler, trucker or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 5.4.22.3 The fees of commission charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined by BDDD to be reasonable and not excessive as compared with fees customarily allowed for similar services.

5.5 CERTIFICATION

- 5.5.1 In order to count the participation of SBEs towards the Contract goal, the SBE must be certified by the Small Business Administration 8(a) Program, Texas Department of Transportation (TxDOT), North Central Texas Regional Certification Agency, D/FW Minority Supplier Development Council or the Women's Business Council Southwest. Other certifications are not acceptable.
- 5.5.2 In addition to having a valid certification from one of the entities listed above, the SBE must have a place of business in the Airport's market area at the time the firm is submitted for credit towards meet the SBE goal, which is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties. The SBE must provide any requested documentation to establish its place of business to the satisfaction of BDDD.
- 5.5.3 The Contractor must submit to BDDD a properly completed SBE certificate or letter, with all required attachments, for all SBE participation (self-performance, subcontractors or suppliers) proposed to meet the Contract goal at the time of Bid/proposal submission. The Board reserves the right to reject the participation of a certified firm for credit towards meeting the Contract goal, in its sole discretion. Such rejection shall be in writing and state the reason(s) for the rejection. A Contractor whose proposed certified firm is rejected for goal credit may request reconsideration of the rejection to BDDD in writing. The request for reconsideration must be received by BDDD within five (5) business days of the notification of rejection. BDDD's decision on the request shall be final.

- 5.5.4 A firm must be certified as a SBE by an agency accepted by BDDD at the time of Bid or proposal submission to be counted towards meeting the goal for purposes of determining Contract award.
- 5.5.5 Post award, a Contractor may count SBEs certified during the performance of the Contract towards its SBE contractual commitment once documentation confirming such certification is submitted to BDDD.
- 5.5.6 BDDD and the Texas Department of Transportation maintain a current listing of certified SBEs. Bidders and proposers must utilize these Directories to assist them in locating SBEs for the work required on the Contract. The SBE Directories are located at:

<http://www.dot.state.tx.us/business/sbeinfo.htm>
<https://dfw.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?TN=dfw&XID=5886>

- 5.5.7 SBE certification does not constitute a representation or warranty as to the qualifications or capabilities of any certified firm.

5.6 SBE UTILIZATION FORMS AND RELATED DOCUMENTATION

- 5.6.1 Each Contractor must submit for all solicitations, Bids or proposals, completed SBE utilization forms as outlined below.

5.6.1.1 Invitation for Bid (IFB) for Construction Projects:

- **Commitment to SBE Participation** must be submitted at the time of Bid submission.
- **Preliminary Schedule of Subcontractors** must be submitted at the time of Bid submission
- **Certification Certificates**. Copies of corresponding certification certificates must be attached to the Preliminary Schedule of Subcontractors.
- **Good Faith Effort Documentation**. If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of Bid submission.
- **Final Schedule of Subcontractors** shall be submitted within three (3) business days from the date of the Bid opening or with the Bid verification.
- **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors, shall be submitted within three (3) business days from the date of the Bid opening or with the Bid verification.

OR

5.6.1.2 Invitation for Bid (IFB) for General Goods and Services Projects:

- **Commitment to SBE Participation** must be submitted at the time of Bid submission.
- **Certification Certificates**. Copies of corresponding certification certificates must be attached to the Final Schedule of Subcontractors.
- **Good Faith Effort Documentation**. If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of Bid submission.
- **Final Schedule of Subcontractors** shall be submitted at the time of Bid submission.
- **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor should be submitted at Bid time.

5.6.1.3 Request for Proposals (RFP) or Request for Qualifications (RFQ):

- **Commitment to SBE Participation** must be submitted at the time of proposal submission.
- **Preliminary Schedule of Subcontractors** must be submitted at the time of proposal submission
- **Certification Certificates**. Copies of corresponding certification certificates must be attached to the Preliminary Schedule of Subcontractors.
- **Good Faith Effort Documentation**. If the Contractor fails to meet the SBE goal, this documentation must be submitted at the time of proposal submission.
- **Final Schedule of Subcontractors** shall be submitted with the best and final offer.

- **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors, shall be submitted with the best and final offer.

OR

5.6.1.4 Request for Price Proposal for a task/delivery order under an Indefinite Delivery Contract:

- **Commitment to SBE Participation** must be submitted at the time of proposal submission.
- **Compliance Plan:** Post Contract award, submit to BDDD for review and approval.
- **Final Schedule of Subcontractors** At the time that a delivery order price proposal is requested, the Final Schedule of Subcontractors must be submitted with the price proposal submission.
- **Certification Certificates.** Copies of corresponding certification certificates must be attached to the Final Schedule of Subcontractors.
- **Intent to Perform as a Subcontractor** A signed and executed form for each SBE subcontractor identified on the Final Schedule of Subcontractors must be submitted with the final agreed-upon price proposal for each delivery order.

5.6.2 Any commitments to meet the SBE goal must be detailed on the **Commitment to Small Business Enterprise (SBE) Participation** form included with the Bid/proposal. This commitment includes the following:

“The Contractor must maintain the SBE participation level to which it committed at contract award throughout the performance of the Contract. A Contractor may not terminate for convenience a SBE subcontractor (or an approved substitute SBE) and then perform the work of the terminated subcontract with its own workforces, those of an affiliate or any other firm, without the prior written consent from BDDD. When a SBE subcontractor is terminated, or fails to complete its work on the Contract for any reason, the Contractor is required to make good faith efforts to substitute another SBE to fulfill its SBE contractual commitment.”

5.6.3 The **Schedule of Subcontractors** form must list all subcontractors the Contractor intends to use in performing the work of the project, including non-SBEs, and detail the preliminary and/or final percentage and dollar commitment of the Contractor to SBE participation. Only SBEs identified and the levels of participation listed for each at the time of Bid submission will be considered in determining whether the Contractor has met the goal. All SBEs must be properly certified under the guidelines of the CERTIFICATION section. Submission of the **Intent to Perform as a Subcontractor** form for each SBE shall constitute a representation by the Contractor to the Board that it believes the SBE to be certified as a SBE to perform the work as designated. It shall also represent a commitment by the Contractor that if it is awarded the Contract, it will enter into a subcontract with the SBE for the work described at the approximate price and percentage set forth in the **Intent to Perform as a Subcontractor** form.

5.6.4 If the SBE's information or status changes after the form has been submitted but prior to award of the Contract, the Contractor must immediately notify BDDD of the change and a written explanation for the change by submitting a **Request for Approval of Change to Final Schedule of Subcontractors** form. No change in SBE participation after Bid submission, but prior to Contract award, may change, or be deemed to change, the Contractor's submitted Bid amount. The Modification and Substitutions section of the Policies shall govern the modifications and substitutions of the SBEs that occur after Contract award.

5.6.5 Except as authorized by BDDD, the Contractor shall enter into formal agreements with the SBEs listed on the **Final Schedule of Subcontractors** and **Intent to Perform as a Subcontractor** forms within ten (10) business days after receipt of the Contract executed by the Board. If requested, the Contractor must provide the BDDD copies of those agreements within five (5) business days of the written request.

5.6.6 Alternative Compliance Plan

5.6.6.1 When the project design is not complete or at a level of completeness allowing for final competitive

pricing proposals, BDDD's may, in its sole discretion, require Bidders or proposers for a construction or construction-related professional services Contract to submit a Compliance Plan in lieu of the above forms. The Compliance Plan shall be developed in accordance with the following requirements:

- BDDD may require separate goals for project professional services and for project construction services, or a project aggregate goal. The Compliance Plan may be required to address the project professional services goal and project the construction goal, only the project construction goal or any project aggregate goal in BDDD's discretion.
- The construction goal shall be expressed as a percentage of either the total amount of any lump sum construction Contract awarded to complete a project, or in the alternative, the total estimated "cost of the work" as that term is defined in any guaranteed maximum price Contract awarded to complete a project.
- The Airport department head shall provide a good faith estimate of the construction cost upon which a construction goal shall be set and the Bidder or proposer must provide a refined estimate at the time of the submission of a proposed Compliance Plan, if the amount is not reflected in an executed Contract.
- After consultation with the Department head or a designated representative, BDDD shall establish a timetable for submittal and review of the proposed Compliance Plan.
- At BDDD's sole discretion, it may require submission and review of a proposed Compliance Plan during the solicitation process as a solicitation submittal requirement or after the conclusion of the solicitation process as a component of Contract negotiations and award. Failure to comply with the submittal timetable may, at BDDD's sole discretion, result in no further consideration of the proposed Compliance Plan and rejection of the proposal.

5.6.6.2

At a minimum, a proposed Compliance Plan must:

- Comply with the Policies, including affirming that BDDD shall have prompt, full and complete access to all Bidder or proposer and subcontractor personnel, books and records required to monitor and assure performance of the approved Compliance Plan and acknowledging the Board's right to withhold payment in the event of non-compliance and subject the Contractor to other sanctions pursuant to the Policies.
- Provide a detailed program for community outreach and support to enhance SBE opportunities.
- Provide a detailed program describing how the Bidders or proposers will divide up the anticipated work into economically feasible units calculated to enhance SBE opportunities.
- Describe in detail how the Bidders or proposers will make good faith efforts to meet the project goal, including work that the Bidders or proposers would normally self-perform, and provide for review, reconciliation milestones and audit opportunities for BDDD.
- If the proposed Compliance Plan is based upon a phased or packaged buy out of the project construction work, the Bidders or proposers will describe the process by which the Bidders or proposers will address the project goal on a phased/ package or cumulative basis.
- Describe how the Bidders or proposers will comply with the requirements herein as part of the subcontractor buyout of the construction work, including use of commitment forms, Schedule of Subcontractors, Intent to Perform and joint venture forms to adequately document committed participation attained.
- Contain a specific acknowledgement of the Bidder's or proposer's continuing duty to meet the requirements of the Policies. The Compliance Plan must detail how the proposer will make good faith efforts to maintain its SBE commitments.
- Set forth how the Bidders or proposers will comply with BDDD's online reporting system for tabulation of participation performance and plan administration and for monitoring and reporting progress and participation performance to BDDD.
- Recommend methods for supporting BDDD administration and oversight of the Compliance Plan.
- Set forth a detailed methodology for issuance of notice(s) of non-compliance to the Bidder's or proposer's subcontractors with the Compliance Plan and a reasonable opportunity to cure.

- Set forth a detailed methodology for final reconciliation of participation performance, measured against the established goal and plan close out.

5.6.7 BDDD shall approve or initially reject, with comments, the proposed Compliance Plan. If the proposed Compliance Plan is rejected, the Bidder or proposer may submit a revised Compliance Plan by a date set by BDDD. BDDD in its sole discretion may meet with the proposer to discuss any deficiencies that must be addressed in the revised Compliance Plan. If BDDD determines the revised Compliance Plan is insufficient to meet the requirements of the Policies, it shall notify the department head in writing of the rejection and the reasons for the rejection. BDDD's determination shall be final and result in no further consideration of the proposal or, in the event a Contract has been awarded, in withdrawal of the award for cause. In no event shall a Contract to construct a project be executed or continue without an approved Compliance Plan.

5.7 PAYMENT

5.7.1 It is Board policy that all Contractor invoices submitted to it in compliance with the Contract will be paid by it within 30 days of its receipt.

5.7.2 All Contractors must comply with the Texas Prompt Pay Act (Chapter 2251; Texas Government Code) in paying all sums, including retainage withheld from subcontractors, to subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities, including paying such persons or entities within 10 days of receiving payment from the Board their appropriate share of such payment. No Contractor that has received payment of an undisputed amount from the Board may withhold from any subcontractor its undisputed appropriate share of such payment.

5.7.3 No Contractor may withhold retainage from any subcontractor at a higher percentage rate than retainage is withheld by the Board from Contractor. Except for the Texas Prompt Pay Act requirement that a Contractor release retainage to a subcontractor within 10 days of that subcontractor's invoice for retainage, each Contractor must withhold/release retainage from/to each subcontractor in at least the same manner as retainage is withheld/released by the Board from/to Contractor (and must include provisions in its subcontracts ensuring this), including, but not limited to mirroring the Board's treatment of retainage withheld/released to Contractor concerning the following subjects:

- the percentage amount of retainage withheld/released;
- the schedule for withholding/releasing retainage;
- the phased release of retainage according to any phased completion (substantial/final) of portions of the project;
- the optional cessation of withholding retainage prior to substantial/final completion of, or final payment for, the project (e.g. optional cessation when 50% of project is substantially complete, with an owner's right to resume withholding retainage upon the occurrence of certain events);
- the release of retainage prior to final payment, less an amount withheld to cover a percentage of the value of punch-list work required before final completion is certified (e.g. retention of 200% of the value of punch-list work pending certification of final completion).

5.7.4 Each Contractor must address (and implement) in its subcontracts the subject of retainage so that each subcontractor is treated by the Contractor in the same manner as Board treats Contractor. Nothing in this provision precludes a Contractor from including in its subcontracts retainage provisions that are more favorable than those contained in the Contract between Board and Contractor, including, but not limited to, provisions withholding retainage at a lesser percentage rate, releasing retainage in part/whole earlier than retainage released by Board and/or withholding less retainage than Board withholds to cover the value of punch-list work required to be completed before final completion certification.

5.7.5 DFW encourages all Contractors and their subcontractors, subconsultants, vendors, materialmen, suppliers and similar persons or entities to make payment of invoices submitted to them more expeditiously than required under the Texas Prompt Pay Act.

5.7.6 Payment by a Contractor in violation of the terms of the Contract or applicable law will constitute a material breach of this Contract.

- 5.7.7 The Board may withhold progress payments until the Contractor demonstrates compliance with the payment terms of this Contract or applicable law, including withholding progress payments solely relating to monies payable to Contractor for work it self-performs or associated retainage.
- 5.7.8 The Board may also exercise any other rights or remedies available to it under this Contract or applicable law if Contractor fails to comply with the payment terms of this Contract or applicable law.
- 5.7.9 In an effort to remove the obstacle of the length of time for subcontractor payments on Board procurements, the Board has an Expedited Payment Policy for eligible Contractors that may elect to voluntarily participate in. This policy is applicable if a Contractor has been awarded a multi-year Contract for construction and/or maintenance services of at least \$10,000,000 in Contract value. The Expedited Payment program requires those eligible Contractors that voluntarily participate in the program to pay their subcontractors within seven (7) calendar days after receipt of the subcontractor's invoice. The Board would then pay interest and provide other incentives to the Contractor on eligible expedited payments according to the Expedited Payment Process and Policy. The terms for Expedited Payment will be negotiated prior to the issuance of the Notice to Proceed.
- 5.7.10 To ensure that the Contractor meets all its SBE contractual commitments, BDDD will review the Contractor's SBE utilization throughout the term of the Contract, including any term extensions of the original Contract period. If a Contract includes a SBE contractual commitment, the Contractor must report all SBE payments using the BDDD's online reporting system and submit a Pay Period Activity Report (PPAR) (with verifying information) concurrent with the Contractor's submission of payment requests with each invoice. The information reflected on the PPAR will be utilized to provide constant monitoring of the payments made to the SBE as well as non-SBE subcontractors in relation to the percentage of work performed. Failure to include a required PPAR form with the invoice utilizing the Board's online reporting system will result in the invoice being returned to the Contractor.
- 5.7.11 Contract Close Out: To ensure that the Contractor meets all its SBE contractual commitments, BDDD will review the Contractor's SBE utilization throughout the term of the Contract, including any term extensions of the original Contract period, prior to receiving final payment. If a Contract includes a SBE contractual commitment, the Contractor must report all SBE payments using BDDD's online reporting system and submit Final Pay Period Activity Report (with verifying information) concurrent with the Contractor's submission of final payment request.
- 5.7.12 BDDD encourages all Contractors that may have a dispute with any subcontractor to attempt to resolve such dispute through appropriate formal or informal alternative dispute resolution procedures, including, but not limited to, negotiation, mediation, collaborative law, arbitration and/or conciliation, prior to seeking BDDD's assistance in resolving the dispute. If any Contractor or subcontractor does seek BDDD's assistance, it may require them to first attempt to resolve their dispute through appropriate alternative dispute resolution procedures and to provide BDDD with evidence of their good faith attempts to resolve the dispute as a condition of further assistance from BDDD.
- 5.8 MODIFICATIONS OR SUBSTITUTIONS
- 5.8.1 This Section applies to all subcontractor modifications, changes and substitutions under this Contract. The Contractor shall comply with this Section to the extent needed to achieve its SBE contractual commitment stated in its ***Commitment to Small Business Enterprise (SBE) Participation*** form.
- 5.8.2 The Contractor understands that if change orders or any other Contract modifications are issued under the Contract, the Contractor shall have a continuing obligation to immediately inform BDDD in writing of any agreed upon increase or decrease in the scope of work of such Contract, regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.
- 5.8.3 The Contractor agrees that if change orders or other Contract modifications are issued under the Contract that include an increase in the scope of work whether by amendment, change order, force account or otherwise which increases or decreases the dollar value of the Contract, whether or not such change is within the scope of work designated for performance by a SBE at the time of Contract award, then such amendment, change order or other modification shall be contemporaneously submitted to BDDD. The Contractor must make good faith efforts to meet its SBE contractual commitment. If the Contractor is unable to meet its SBE contractual commitment, it must submit a

Request for Approval of Change to Final Schedule of Subcontractors, must be approved in writing by BDDD.

- 5.8.4 The Contractor cannot terminate or otherwise change the terms of its Final Schedule of Subcontractors prior to or after Contract award without the prior written consent of BDDD. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a SBE subcontractor with its own forces or those of an affiliate, a non-SBE or another SBE.
- 5.8.5 The Contractor must demonstrate good cause to terminate the SBE to the satisfaction of BDDD. Good cause includes the following circumstances:
- 5.8.5.1 The listed SBE subcontractor fails or refuses to execute a written Contract.
- 5.8.5.2 The listed SBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements.
- 5.8.5.3 The listed SBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness.
- 5.8.5.4 The listed SBE is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to federal or state law.
- 5.8.5.5 BDDD has determined that the listed SBE subcontractor is not a responsible contractor.
- 5.8.5.6 The listed SBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal.
- 5.8.5.7 The listed SBE subcontractor is ineligible to receive to receive credit for the type of work required.
- 5.8.5.8 The SBE owner dies or becomes disabled with the result that the listed SBE subcontractor is unable to complete its work on the Contract.
- 5.8.5.9 Other good cause as determined in BDDD's sole discretion,
Good cause does not include where the Contractor seeks to terminate a SBE it relied upon to obtain the Contract so that the Contractor can self-perform the work or substitute another SBE or non-SBE subcontractor to perform the work for which the SBE was engaged or listed on the **Final Schedule of Subcontractors**.
- 5.8.6 The Contractor must give the SBE notice in writing, with a copy to BDDD, of its intent to request to terminate and/or substitute, and the detailed reasons for the request. The Contractor and the SBE must attempt to negotiate a resolution of the situation, and if the negotiation is unsuccessful, the Contractor must document this effort before the Contractor seeks BDDD's approval to substitute the SBE.
- 5.8.7 Contractors must meet the above criteria and process before requesting prior written approval of any material change in the ownership, control, duties, functions and responsibilities of any SBE. The Contractor cannot make any changes to the **Final Schedule of Subcontractors** without the prior written consent of BDDD.
- 5.8.8 If the Contractor proposes to terminate or substitute a SBE subcontractor for any reason, the Contractor must make good faith efforts as defined herein to find a substitute SBE subcontractor for the original SBE to meet its SBE contractual commitment. Its good faith efforts shall be directed at finding another SBE to perform or provide at least the same amount of work, material or service under the Contract as the original SBE to the extent necessary to meet its SBE contractual commitment. The Contractor may also find additional SBEs and/or adjust the current/projected SBE participation to meet its SBE contractual commitment.
- 5.8.9 The Contractor must submit an **Intent to Perform as a Subcontractor** form for each proposed new SBE subcontractor. BDDD will approve or disapprove the substitution based on the Contractor's documented compliance with these provisions.
- 5.8.10 All changes to the **Intent to Perform As A Subcontractor** form must be submitted for review and approval through the **Request for Approval of Change to Final Schedule of Subcontractors** form

when adding, changing, or deleting any subcontractor.

- 5.8.11 If the Contractor does not comply with these provisions relating to the modification or termination of, and/or substitution for a SBE subcontractor, the Board may elect to apply Contract remedies as described in the Board's Policies. Additionally, the Board may order the Contractor to forfeit the profits from the terminated portion of the SBE subcontract.

5.9 COMPLIANCE AND ENFORCEMENT

- 5.9.1 These Compliance and Enforcement Provisions address the additional contractual remedies available to Board as a result of Contractor's failure to comply with the obligations set forth in the SBE Program requirements. The contractual remedies set forth in the SBE Program are also applicable to the Contractor's failure to comply with the Program requirements, as well as any remedies available at law or in equity. These remedies are not intended to apply to Contractor's failure to comply with other obligations under the Contract unrelated to the Program requirements or preclude Board's recovery of its actual damages for such unrelated breaches.
- 5.9.2 The Contractor must forward all necessary documents and information during the course of performance under this Contract and to close out the Contract and must cooperate with BDDD in providing any information, including the final accounting for SBE participation on the Contract.
- 5.9.3 BDDD is empowered to receive and investigate complaints and allegations by SBEs, third parties or Board Staff, or to initiate its own investigations, regarding Contractor's compliance with the Program requirements. If BDDD determines that an investigation is warranted, the Contractor must fully cooperate with the investigation and provide complete, truthful information to the Board concerning the investigation and Contractor's compliance with the Program requirements.
- 5.9.4 The failure of the Contractor to meet the SBE contractual commitment or comply with any other aspect of the Program requirements will constitute a material breach of the Contract entitling the Board to exercise any remedy available in this Contract, the Program requirements or applicable law.
- 5.9.5 The Board may report any suspected false, fraudulent or dishonest conduct relating to the Contractor's performance of the Program requirements to the Board's Department of Audit Services or to any applicable enforcement agency, including the State Attorney General's Office and appropriate federal law enforcement authorities.
- 5.9.6 If Contractor is in breach of any of the Program requirements, the Board may exercise any of following remedies, in addition to any other remedies available to it under this Contract or at law or in equity:
- withholding funds payable under this Contract, including, but not limited to, funds payable for work self-performed by the Contractor or applicable retainage;
 - temporarily suspending, at no cost to DFW, Contractor's performance under the Agreement/Contract;
 - termination of the Agreement/Contract;
 - suspension/debarment, in accordance with applicable law, of Contractor for a period of time from participating in any solicitations issued by DFW for severity of breach of Contract.
- 5.9.7 With respect to SBE firms, a finding of non-compliance could result in a denial of certification or removal of eligibility and/or suspension and debarment.

END OF SPECIAL PROVISIONS

GENERAL TERMS AND CONDITIONS

1 AIRPORT ACCESS AND SECURITY

- 1.1 Work under this contract may require Contractor and subcontractor personnel to go through an access control badging process. All badge fees will be charged per the DFW Airport Schedule of Charges, which can be found at <http://www.dfwairport.com/about/financials/index.php> in the section titled "Public Safety Medical and Service Charges".
- 1.2 U.S. DEPARTMENT OF HOMELAND SECURITY – CUSTOMS & BORDER PROTECTION SECURITY ACCESS CLEARANCE. If your job responsibility requires you to access a Federal Inspection Services (FIS) area, aircraft deplaning and ramp area, or other restricted areas designated by the Customs & Border Protection (CBP) Port Director, additional clearance is required by CBP. You will need to complete [CBP Form 3078](#) and the [CBP Airport Security Access Addendum](#). Then you must present the forms to CBP along with a letter on company letterhead that attests that a background check was conducted on the applicant to the extent allowable by law. The letter must also contain a description of the duties that will be performed in the CBP area. Applicants for Customs seals must keep track of the date the Customs application is accepted at the CBP Air Security Office as you will be required to know this information in order to know when your seal is ready for pick-up. Each Friday, CBP will send a notification to point of contact for each stakeholder indicating the seals that are ready to be picked up for the applications that were accepted on a specific date. This will also include applications accepted prior to the date specified. Stakeholder Point of Contact Notification Example: Applications ready to be picked up: 11/07/2013 and prior; Application date CBP is working on: 11/12/2013. Seals can only be dropped off and picked up in the CBP Air Security Office in Terminal D on the Arrivals Level in Room D29L118 during CBP Air Security Office hours. The CBP Air Security Office is open on Tuesday and Thursday from 8:00 a.m. to 2:30 p.m., for more information about this process; please contact CBP at (972) 973-9820 or (972) 973-9972.
- 1.3 COMPLETING THE FINGERPRINT APPLICATION. First time applicants are required to clear an electronic, fingerprint-based criminal history records check, receive an approved Security Threat Assessment result from the Transportation Security Administration and if applying for a Security Identification Display Area (SIDA) badge, the applicant must also successfully complete DFW SIDA Training before a badge will be issued. Applicants are required to read and sign a Fingerprint Application before receiving fingerprint services. This application lists the 28 crimes that disqualify applicants from receiving a badge. It also advises the applicant of his/her responsibility to self-disclose any arrests/convictions received while possessing security access privileges with DFW Airport.
- 1.4 SECURITY TRAINING. Applicants applying for the SIDA badge will be required to successfully complete security training before badge issuance; the training must be completed in the DFW Access Control Office. The training must be successfully completed within thirty (30) days from the date of the criminal history records check clearance or the Security Threat Assessment approval, whichever is the later date. The applicant may come to the Access Control Office on three (3) separate days during the thirty (30) day timeframe. If the applicant does not successfully complete the security training within the thirty (30) day timeframe, the applicant will not receive a badge.
- 1.5 DFW AIRPORT BOARD ACCESS CONTROL (BADGING) OFFICE. Applications and forms are available on-line at <http://www.dfwairport.com/badge>. Paperwork is accepted at Terminal D, Departure Level, Room D22L352. Office hours are Monday through Thursday between 7:00 a.m. and 5:00 p.m. and on Friday between 7:00 am and noon. For additional information about this process, please contact the Access Control Office at aco@dfwairport.com or at 972 973 5100.
- 1.6 PARKING FEES. The Airport shall reimburse the Contractor at actual cost for Airport parking fees incurred as a direct result of performance of Work under this Contract. Contractor must submit a copy of each receipt with invoice.

2 AIRPORT'S RIGHT TO INSPECT AND AUDIT

- 2.1 The Contractor (and Contractor's suppliers, vendors, subcontractors, insurance agents and other agents) shall maintain and the Airport shall have the right to examine records, documents, books, accounting procedures and practice and any other supporting evidence deemed necessary by the Airport to substantiate compliance with the terms of this Contract, including Change Orders. Such right of examinations shall include reasonable access to and cooperation by all Contractor personnel who have

worked on or have knowledge related to the performance of this Contract. Proprietary/Trade Secret information pertaining to this Contract may not be withheld from Airport or its Authorized Representative.

- 2.2 The Contractor's, subcontractors' and related agent and vendor organization's documents, records and other evidence shall be subject to inspection and/or reproduction by the Airport, its agents and Authorized Representatives. The Contractor shall provide the Airport with retrievals of computer-based records or transactions that the Airport determines to be necessary to conduct the audit. There shall be no charge to the Airport for reasonable use of the Contractor's photocopy machine while conducting the audit, nor for any cost of retrieving, downloading to diskette, and/or printing any records or transaction stored in magnetic, optical, microfilm, or other media. The Contractor shall provide all records and retrieval requested, within seven (7) calendar days.
- 2.3 The documents, etc., described above shall be made available at the office of the Contractor at all reasonable times, for inspection, audit, and reproduction, until the expiration of three (3) years from the date of the Airport's final acceptance of the Work. Records, which relate to appeals or litigation or settlement or claims arising out of the performance of this Contract, shall be made available for a period of three (3) years from the date of the final disposition of such appeals, litigation, or claims. The Contractor shall provide adequate and appropriate workspace to conduct all inspections, audits, and reviews. The Airport shall provide the Contractor with a reasonable advance notice of intended audit, inspections, and reviews.
- 2.4 The Contractor shall insert an item containing all these Audit provisions, including this paragraph, in all subcontracts hereunder except altered as necessary for the proper identification of the contracting parties and the Airport under this Contract. Failure to insert these Audit provisions in all subcontracts hereunder shall be reason to exclude some or all of the related costs from amounts payable to the Contractor pursuant to this Contract.
- 2.5 In addition, where projects are funded wholly or in part by federal grants, the FAA, the Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to grants received in accordance with CFR 49, Part 18, as it may be amended from time to time.
- 2.6 If an audit or review in accordance with this Section disclosed overcharges (of any nature), by Contractor, in excess of five percent (5%) of the contract value audited, the cost of the Airport's audit shall be paid by the Contractor.

3 ASSIGNMENT

The Contractor is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of the Contract or its rights, title, or interests therein, or its power to execute such agreement to any other person, company, or corporation without the prior approval, in writing, by the Dallas Fort Worth International Airport Board (Airport) Vice President of Procurement and Materials Management Department (PMM), whose approval shall be discretionary. Such consent shall not relieve the assignor of liability in the event of default by its assignee.

4 CHANGES IN CONTRACT

The Airport reserves the right to make changes in the scope of the Work as may be considered necessary or desirable, and Contractor shall perform the Work as altered, whether increased or decreased, for a new Contract price equitably adjusted to reflect the changes. No allowance will be made for anticipated profits where the scope of the Work has been diminished. All Contract changes must be executed in writing by Contract Change Order signed by the Vice President of PMM or designee from the PMM Department. Payment will be made only for actual quantities of products delivered or Work performed.

5 CODE OF BUSINESS ETHICS

- 5.1 All Airport employees must adhere to the Airport's Code of Business Ethics, which is included in this Section by reference. The Contractor is therefore prohibited from offering or providing Airport employees, directly or indirectly, any gifts or other items that the Airport's Code of Business Ethics does not allow the employee to accept. The Contractor shall ensure that all of its management and other Fair Labor Standard Act-exempt employees associated with this Contract read and understand the Airport's Code of Business

Ethics. The Airport may require each such employee of the Contractor to acknowledge in writing that they have read and do understand the Airport's Code of Business Ethics found online at www.dfairport.com.

- 5.2 Additionally, the Airport frequently uses outside contractors to perform functions similar to those performed by Airport employees (e.g., project managers, quality assurance inspectors, payment analysts, contract administrators, etc.). Contractor employees who perform work associated with this Contract (including any supplemental agreements, extra work authorizations, delivery orders, change orders, etc.) shall comply, in all respects, with the Airport's Code of Business Ethics as it relates to their assigned scope of work on this Contract. For example, a quality assurance inspector may not accept a gift from a subcontractor that he or she is monitoring, if the Airport's Code of Business Ethics would prohibit an Airport employee performing the same duties from accepting the gift.
- 5.3 Any questions related to the interpretation of this Section shall be directed to the Airport Airport's General Counsel.
- 5.4 The Contractor shall insert an Article containing all the provisions of this Section, including this paragraph, in all subcontracts hereunder executed except altered as necessary for the proper identification of the contracting parties and the Airport under this Contract.

6 COMPLIANCE WITH LAWS

Contractor shall comply with all applicable Federal, State and Local laws, statutes and ordinances, and with all applicable regulations or orders of any governmental department, Airport, bureau or agency, including the Airport.

7 CONFIDENTIAL OR PROPRIETARY INFORMATION

Any portion of the Contractor's Bid that is marked confidential or proprietary, or clearly states contains trade secrets of the Contractor may not necessarily guarantee the non-release of the information under the Public Information Act or as otherwise required by law. If access is requested to information in the Contractor's Bid so marked, the Airport shall review the issues thoroughly and, if justified, shall request an opinion by the Attorney General's office prior to releasing any information requested under the Public Information Act.

8 CONTRACTING PROHIBITIONS: AS REQUIRED BY STATE LAW

- 8.1 **Bid Rejection:** Board will reject any Bid from a Bidder that:
- Boycotts Israel;
 - Contracts with or provides supplies or services to a foreign terrorist organization;
 - Engages in certain scrutinized business operations in Sudan, Iran or with a designated foreign terrorist organization; or
 - Has been complicit in the Darfur genocide during any preceding 20-month period.
- 8.2 **"Boycott Israel" Defined:** "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
- 8.3 **Verification:** Each Bidder must execute and submit with its Bid the verification included. That verification will:
- Form a material part of its Bid; and
 - Will be incorporated into any awarded contract.

9 COOPERATIVE PURCHASING AGREEMENT

As permitted under Title 8, Chapter 271, Subchapter F., Section 271.101 and 271.102 V.T.C.A. and Title 7, Chapter 791, Subchapter C., Section 791.025, V.T.C.A., other local governmental entities may wish to also participate under the same terms and conditions contained in this contract. Each entity wishing to participate must enter into an Interlocal Agreement with the Airport and have prior authorization from the Contractor. If such participation is authorized, all purchases or services will be issued directly from, and shipped directly to, the local governmental entity requiring products or services. The Airport shall not be held responsible for any

orders placed, deliveries made or payment for products or services ordered by these entities. Each entity reserves the right to determine their participation in this Contract.

10 DELIVERY LOCATION

- 10.1 Unless otherwise directed by the specifications, order, or the Airport's Technical Representative, the products to be furnished under this Contract shall be delivered to:

Dallas Fort Worth International Airport
Central Warehouse
3122 East 30th Street (Carbon Road)
DFW Airport, Texas 75261

- 10.2 Successful Bidder may be required to provide notification of intent to deliver at least twenty-four (24) hours in advance of scheduled delivery. Unless otherwise agreed upon at time of notification, delivery must be accomplished between the hours of 8:00 a.m. and- 4:00 p.m., Monday through Friday (excluding Airport-observed holidays).

11 DELIVERY OF PRODUCT

- 11.1 Delivery date is an important factor to the Airport and may be required to be a part of each Bid. The Airport considers delivery time to be that period elapsing from the time the individual order is placed until that order or work thereunder is received by the Airport at the specified delivery location.
- 11.2 All product(s) covered by this Bid shall be delivered F.O.B. Destination DFW Airport, from point of assembly to the Dallas Fort Worth area by railway freight or conveyed by truck or airfreight. The Airport shall not be liable for any deliveries unless same has been received at the specified delivery location within the Dallas Fort Worth International Airport, inspected and accepted as in full compliance with the Specifications. Risk of theft, destruction, loss or damage to any work, materials, shipment, or deliveries will be borne exclusively by the successful Bidder until after the Airport completes its inspection and acceptance of said work, material, shipments, or deliveries; the burden and cost of insurance against such risks shall be assumed by the successful Bidder.
- 11.3 Delivery will be made only upon authorization of the Airport's Technical Representative or Airport's Vice President of PMM or designee, and shall be made if, as, and when required and ordered by the Airport, at such intervals as directed.
- 11.4 Contractor warrants that all deliveries made under the Contract will be of the type and quality specified; and the Airport's Vice President of PMM may reject and/or refuse any delivery that falls below the quality specified in the Specifications. The Airport shall not be held to have accepted any delivery until after an inspection of same has been made and an opportunity to exercise its right of rejection has been afforded.
- 11.5 Failure by the Contractor to make reasonable delivery as and when requested shall entitle the Airport's Vice President of PMM to acquire quantities from alternate sources wherever available, with the right to seek reimbursement from the Contractor for amounts, if any, paid by the Airport over and above the Bid price.
- 11.6 All materials delivered if required shall be free of any and all liens and shall upon acceptance thereof become the property of the Airport, free and clear of any materialman's, supplier's, or other type liens.
- 11.7 Acceptance by the Airport of any delivery shall not relieve the Contractor of any guarantee or warranty, express or implied, nor shall it be considered an acceptance of material not in accordance with the Specifications and shall not waive the Airport's right to request replacement of defective material.

12 DISPUTE RESOLUTION

The Airport and Contractor agree that before either party files suit against the other to enforce, or otherwise relating to, the terms of this Contract, it shall notify the other party of its intent to sue. Upon delivery and receipt of such notice, the parties agree to submit the matter to be litigated to mediation before a mutually-agreed upon mediator and to diligently pursue a mediated settlement until such time as the parties mutually agree to terminate such mediation or the mediator declares an impasse. No lawsuit under or relating to this Contract by one party against the other may be filed until mediation of the issue has ended in accordance with the terms hereof.

Notwithstanding the foregoing, this section may be enforced by action for specific performance or injunctive relief.

13 FINANCIAL INTEREST

Contractor understands that Article 11 of the Contract and Agreement between The City of Dallas and The City of Fort Worth, dated April 15, 1968, prohibits any officer or employee of the Airport from having any financial interest, direct or indirect, in any Contract with the Airport, or be financially interested, directly or indirectly, in the sale to the Airport of any land, materials, supplies, equipment or services, except on behalf of the Airport as an officer or employee thereof. Any violation of this prohibition shall constitute malfeasance in office, and any officer or employee adjudged guilty thereof shall thereby be subject to removal from his/her office or position by the Airport or the Chief Executive Officer. Any violation of this provision by a member of the Airport shall be grounds for removal by a vote of two-thirds (2/3rds) of the City Council appointing such member.

14 FISCAL YEAR FUNDING

The Airport's fiscal year begins October 1 and ends the following September 30th. Budget funds are approved by the Airport and the Cities of Dallas and Fort Worth on an annual basis. In the event the Airport/Cities should fail to fund the Contract for any fiscal year during the Contract term, the Contract shall automatically terminate on the last day of the fiscal year for which funding has been approved. Contractor will be given no less than sixty-(60) days written notice of any such non-approval of Contract funding. Termination under this clause shall be without penalty to the Airport.

15 FORCE MAJEURE

Neither Contractor nor the Airport shall be responsible or deemed to be in default of its obligations to the other to the extent any failure to perform or delay in performing its obligations under this Contract is caused by events or conditions beyond the reasonable control of that party, and are not due to the negligence or willful misconduct of such party (hereinafter, "force majeure events"). For purposes of this Contract, force majeure events shall include, but not be limited to, acts of God or public enemy, war, riot or civil commotion, strikes, epidemic, fire, earthquake, tornado, hurricane, flood, explosion, or other catastrophes, or events or conditions due to governmental law, regulations, ordinances, order of a court of competent jurisdiction, executive decree or order. However, in the event of such delay(s) or nonperformance, the party so delayed shall furnish prompt written notice to the other party (including the date of inception of the force majeure event and the extent to which it will affect performance) and shall undertake all efforts reasonably possible to cure the delay or nonperformance and mitigate its effects or to otherwise perform. The Airport shall not be responsible for payment for any product or service delayed or foreclosed by any force majeure event unless and until such delayed or foreclosed product or service is provided. The provisions of this section shall not preclude the Airport from canceling or terminating this Contract (or any order for any goods or services included herein), or from revising the scope of the Work, as otherwise permitted under this Contract.

16 INDEMNIFICATION AND HOLD HARMLESS

- 16.1 CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONTRACTOR OR SUBCONTRACTOR OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE NEGLIGENCE OF DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH, ITS OFFICERS**

OR EMPLOYEES, IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL OR BODILY INJURY, DEATH, OR PROPERTY DAMAGE. IN THE EVENT CONTRACTOR AND DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 16.2 **THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.**
- 16.3 **CONTRACTOR SHALL PROMPTLY ADVISE THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE DALLAS FORT WORTH INTERNATIONAL AIRPORT BOARD AND CITIES OF DALLAS AND FORT WORTH OR CONTRACTOR KNOWN TO CONTRACTOR RELATED TO OR ARISING OUT OF CONTRACTOR'S ACTIVITIES UNDER THIS CONTRACT.**

17 INDEPENDENT CONTRACTOR

The relationship of Contractor to Airport is that of Independent Contractor. Under no circumstances shall the Airport be considered in privity of Contract with any subcontractor or supplier hired by Contractor, and such subcontractor or supplier, if any, shall look solely to Contractor or to the Contract Bond Surety, if any, for recovery of any claims for monies owed for material supplied or labor performed relating to the Work hereunder.

18 JURISDICTION

This Contract shall be construed in accordance with the laws and court decisions of the State of Texas and be enforceable in Dallas County or Tarrant County, Texas, and if legal action is necessary by either party with respect to the enforcement of any and all of its terms and conditions, exclusive venue for same shall lie in Dallas and Tarrant Counties, Texas.

19 NEW MATERIAL

All products and components to be provided under this Contract shall be new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety), of current production, and of the most suitable grade for the purpose intended, unless otherwise specified. If at any time during the performance of this Contract the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, it shall notify the Vice President of Procurement and Materials Management (PMM) immediately, in writing, including the reasons and proposing any consideration which will flow to the Airport if authorization to use such supplies or components is granted.

20 NON-DISCRIMINATION

- 20.1 As a condition of this Contract, Contractor hereby covenants that it will take all necessary action to insure that, in connection with any Work under this Contract, it will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. In this regard, Contractor shall keep, retain and safeguard all records relating to this Contract or Work performed hereunder for a minimum period of three years following final payment by Airport or resolution of outstanding issues between the Airport and Contractor, whichever is later, with full access allowed to authorized representatives of the Airport upon request for purposes of evaluating compliance with this and other provisions of the Contract.

- 20.2 General Civil Rights Provisions (Required by the FAA)

Contractor or Consultant (hereinafter referred to as "the contractor") agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure 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 is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the contractor or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; 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.

20.3 Title VI Civil Rights Provisions (Required by the FAA)

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

- Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- Non-Discrimination: The contractor, with regard to the work performed by it during the contract, will 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 will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive Bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding payments to the contractor under the contract until the contractor complies; and/or
 - (b) Cancelling, terminating, or suspending a contract, in whole or in part.
- Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation

to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

20.4 Title VI List of Pertinent Nondiscrimination Authorities—During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

21 NON-COMPETE AGREEMENTS

The Airport shall not be bound by any non-compete agreements or similar agreements that inhibit the Airport’s right to award and execute a contract to any company that submits a Bid or proposal to the Airport.

22 NOTICE OF DELAYS

Whenever the Contractor encounters any difficulty which is delaying or threatens to delay timely performance (including actual or potential labor disputes), the Contractor shall immediately give notice in writing to the Vice President of PMM, or designee, including all relevant information. Such notice shall not in any way constitute a basis for an extension of the delivery or performance schedule or be construed as a waiver by the Airport of any right or remedies to which it is entitled by law or pursuant to provisions herein. Failure to give such

notice, however, may be grounds for denial of any request for an extension of the delivery or performance schedule because of such delay.

23 ORDER PROCESS

- 23.1 The Airport shall order products under this Contract either by purchase order issued by the Procurement office, through online ordering (if available and approved), or directly by telephone or in person by authorized Airport Staff.
- 23.2 The Airport will order parts on an as-needed basis. The estimated requirements stated in the Contract Specifications/Scope of Work and the Contractor's quote shall not be considered binding on the Airport; the quantity and frequency of goods/services ordered may actually be less than or greater than projected.
- 23.3 The total amount of all orders issued under the Contract shall not exceed the not-to-exceed amount of the Contract.
- 23.4 The Contractor will be required to fulfill all orders according to the provisions contained in this Contract, and within the established order details. In the event of a conflict in the language of this Contract and the language of the purchase order, the language of this Contract shall control, unless and to the extent the purchase order explicitly states otherwise.

24 PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the Contract provisions or in exercising any power or authority granted to him by this Contract, neither the Airport's Technical Representative, his/her authorized representatives, nor any employees or officers of the Airport shall be personally liable.

25 SEVERABILITY

If any provision of the Contract is declared or found to be illegal, unenforceable or void, in whole or in part, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that it is illegal, unenforceable or void, it being the intent and agreement of the parties that the Contract shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefore another provision that is legal and enforceable and achieves the same objectives. Any such invalidity, illegality, or unenforceability shall not affect any other provision of the Contract. The parties agree to negotiate in good faith for a proper amendment to the Contract in the event any provision thereof is declared illegal, invalid or unenforceable.

26 SUBLETTING OF CONTRACT

The Airport will not recognize any subcontractor on the Work. The Contractor shall at all times when Work is in progress be represented in person, either by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Airport's Technical Representative.

27 TAX EXEMPTION STATUS

The Airport is a local governmental agency and exempt from all city, state, and federal sales and use taxes. However, it shall be understood this tax-exempt status cannot be utilized by the Contractor for its purchase, lease, or rental of a motor vehicle. Additional sales tax requirements may pertain to this Contract and, if so, will be detailed in the Special Provisions contained herein.

28 TERMINATION OF CONTRACT: DEFAULT AND REMEDIES

In the event of a default by the Contractor of this Contract or of any one or more Orders issued hereunder, the Contractor shall be given written notice to cure. Such notice shall describe the default and may, but shall not be required to, recommend a remedy to the default. The Contractor shall have seven (7) days to respond to the notice in writing, which notice shall describe the cure and any associated plan of action. The Contractor shall have thirty (30) days from the date of its receipt of the notice of default to cure the default. If the Contractor has not cured the default on the 31st day after receipt of the notice, the Airport may terminate the contract and/or pursue any and all relief, at law or in equity, to which it may be entitled by reason of such default.

29 TERMINATION OF CONTRACT FOR AIRPORT CONVENIENCE

Whenever the Airport, in its discretion, deems it to be in the Airport's best interests, it may terminate this Contract for the Airport's convenience. Such termination shall be effective thirty (30) days after Airport delivers written notice of such termination for convenience to the Contractor. Upon receipt of such notice from Airport, Contractor shall not thereafter incur, and Airport shall have no liability for, any costs under this Contract that are not necessary for actual performance of the Contract between the date of the notice of termination for convenience and the effective date of that termination for convenience. In the event of a termination for convenience hereunder, Airport shall have no liability to Contractor for lost or anticipated profit resulting therefrom.

30 TERMS OF PAYMENT

- 30.1 Payment Terms shall be Net 30 Days after receipt of valid invoice or correct delivery of product ordered, whichever is later.
- 30.2 Payment may be delayed on invoices not listing the Contract number. Invoices shall be priced per unit prices as awarded unless Contractor invoices at a discounted unit price. If Contractor invoices for less than the contracted unit price, the Airport has the right to accept invoice and pay the discounted price as full satisfaction of compensation due the Contractor.
- 30.3 Invoices will be paid following delivery and acceptance unless special arrangements are made through the Vice President of PMM for partial payment. Approved partial payments will be made following receipt of a valid invoice submitted by the Contractor. Invoices must reflect only the amount due for accepted portion of the goods.
- 30.4 Upon payment by the Airport, Contractor shall pay each subcontractor the appropriate share of the payment no later than the seventh (7th) calendar day after the day on which the Contractor receives payment from the Airport.
- 30.5 Contractor may submit invoices by **only one** of the following methods, listed by preference.
- By Email: imaging@dfwairport.com
 - By Mail: Finance Accounts Payable
Dallas Fort Worth International Airport
PO Box 619428
DFW Airport, TX 75261-9428

31 THIRD-PARTY BENEFICIARY CLAUSE

It is specifically agreed between the parties executing the Contract that it is not intended by any of the provisions of any part of the contract to make the public or any member thereof a third party beneficiary or to authorize anyone not a party to the contract to maintain a suit on or under the Contract.

32 WARRANTY INFORMATION

Manufacturers' standard warranty for parts and labor must be included in the prices Bid and must meet or exceed any additional warranty requirements specified herein. All manufacturers' warranties shall inure to the benefit of the Airport, and replacement of defective materials shall be made promptly upon request. All warranties are subject to compliance with the Uniform Commercial Code. Warranty shall be effective the date of acceptance by the Airport.

END OF GENERAL TERMS AND CONDITIONS

1 BID PREPARATION FORMS

1a BID SUBMITTAL LABEL

Bid/Proposal submittals must be properly labeled to ensure they are not inadvertently opened before the designated time. Therefore, please affix the label below to the outside of the sealed Bid/proposal submittal package(s).

If the delivery service used (i.e. FedEx, UPS, courier, etc.) does not permit this label to be affixed on the outside of their delivery box or envelope, then the Bidder must seal the contents of their Bid/proposal and affix this label on the sealed package before they place that package in the box or envelope provided by the delivery service.

If this label is not used, it is the Bidder's responsibility to ensure this information is written on the outside of the delivery package. ***Bids or proposals received by the DFW Airport that do not have the information requested below displayed on the outside of their Bid or proposal may be rejected.***

----- ✂ DFW AIRPORT BID / PROPOSAL SUBMITTAL LABEL -----

Bid / Proposal Number: 7006684

Bid / Proposal Name: Uninterruptable Power Supply Batteries

Due Date and Time: _____

Company Name: _____

Contact Name: _____

Company Address: _____

Telephone Number: _____

1b NO BID INFORMATION FORM

SOLICITATION NO. 7006684

SOLICITATION TITLE: Uninterruptable Power Supply Batteries

If your firm elects not to submit a Bid or proposal, please complete and fax or email this form to:

**Cathy Halliburton
Dallas Fort Worth International Airport
Fax: 972-973-5608 / Email: challiburton@dfwairport.com**

Please check all that apply:

- Do not sell the item(s) or services required
- Cannot be competitive
- Cannot meet the specifications or qualifications described in the attached Bid
- Cannot provide insurance required
- Cannot provide bonding required
- Cannot comply with indemnification requirements
- Job too large
- Job too small
- Do not wish to do business with the DFW Airport
- Company's current workload does not allow for additional work
- Other reason: _____

Company Name:

Authorized Officer or Agent:

Telephone: _____ FAX Number: _____

or

Email: _____

1c WORKERS COMPENSATION HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

For and in consideration of the sums paid to Contractor by Airport under Contract No. 7006684 (the "Contract") and Airport's agreement to allow Contractor to provide this Hold Harmless and Indemnification Agreement in lieu of workers compensation insurance, Contractor, for himself and as sole proprietor of Contractor, hereby agrees to release the Airport, the Cities of Dallas and Fort Worth, and their respective officers, agents and employees from, and to indemnify each of them against any and all claims and causes of action for injury, death, disease, or employer liability arising from or in connection with my performance of the Contract Work, save and except such personal injury, death, disease or employer liability as are caused by the sole negligence of the Airport.

I further certify that my firm qualifies for exemption from workers compensation insurance requirements under the law; that I am the firm's sole proprietor; and that I will provide proof of medical insurance for myself, the only person from my firm that will be performing work under this contract.

NAME OF FIRM: _____

NAME OF SOLE PROPRIETOR: _____

SIGNATURE OF SOLE PROPRIETOR: _____

DATE: _____

2 BID RESPONSE FORMS

FROM: _____
BIDDING FIRM

2a BID PRICING SUMMARY

The undersigned, as an independent contractor, hereby offers to provide to the Dallas Fort Worth International Airport Board (Airport), at the terms and conditions contained in Solicitation No.7006684, including all addenda, and this Bid, the following goods at the prices hereby Bid:

Uninterruptable Power Supply Batteries

From Attachment A – Bid Pricing Form

CATEGORY	# OF BID ITEMS	# OF ITEMS BID	TOTALS FROM BID PRICING FORM
UPS Batteries	54		\$
Total (Year 1)	54		\$

MAXIMUM ESCALATION RATES FOR RENEWAL PERIODS	%
Year 2	7%
Year 3	7%
Year 4	7%
Year 5	7%

Freight: FOB Destination, prepaid and allowed

Payment terms: Net 30 Days; Discount for early payment, if any ___% discount in ___days

2b COOPERATIVE PURCHASING PROVISION (ACCEPTANCE OPTIONAL)

Bidder’s authorized agent must indicate below if Bidder agrees, if awarded a contract, to allow other governmental entities to participate in this Contract, as defined in the RFB General Terms and Conditions.

- Yes, Agree to Cooperative Purchasing Provision
- No, Do Not Agree to Cooperative Purchasing Provision

2c INSURANCE REVIEW VERIFICATION

- (1) Does the proposing firm currently carry the insurance coverage as specified in the Special Provisions?
 Yes No
- (2) If no, has your firm reviewed the steps necessary, including cost, with your insurance agent, broker or internal department to ensure it will obtain the specified insurance?
 Yes No

2d BUSINESS DISCLOSURE FORM

It is recommended this form be completed by a governing person, governing authority, or legal counsel.

Information about Entity Submitting Bid/Proposal/Offer
 (This information must match the information provided on the Bid/Proposal/Offer.)

Business Name:					
Business Address:			Mailing Address:		
City	State	Zip	City	State	Zip
Business Web Address:					
Business Phone:			Business Fax:		
Contact Person:			Contact's Phone No.:		
Contact's E-Mail Address:					

I. Entity Ownership Information
 (Check the appropriate box and provide requested details below.)

Business Structure: (Please check only one box) <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Partnership		Business Structure: (Please check only one box) <input type="checkbox"/> Limited Liability Partnership	
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Joint Venture		<input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation ("C")	
IF CORPORATION, please check all the type(s) below that are applicable: <input type="checkbox"/> For Profit <u>or</u> <input type="checkbox"/> Non Profit <input type="checkbox"/> Public <u>or</u> <input type="checkbox"/> Private <input type="checkbox"/> S Corporation <input type="checkbox"/> Professional <input type="checkbox"/> Parent-Subsidiary <input type="checkbox"/> Close			
State of Incorporation, Registration or Formation: State: _____ Month: _____ Year: _____			
Name(s) of Owner(s) or Partners (or Owner of DBA if applicable) Please indicate if any such individual(s) were employed by DFW Airport and the dates employed:			
Name of Joint Venture Participants, if applicable Please indicate if any such individual(s) were employed by DFW Airport and the dates employed:			
UNLESS PUBLICLY TRADED list all individuals, partnerships, corporations or other entities having at least 10% ownership in the business and indicate their percentage of ownership . Please indicate if any such individual(s) were employed by DFW Airport and the dates employed. Attach additional sheets if necessary.			
Form Completion Date:			

Failure to properly complete and submit this form with the Bid/proposal/offer may cause the Bid/ proposal/offer to be considered non-responsive.

2e ORGANIZATIONAL SUMMARY INFORMATION

- 1. BIDDING FIRM: _____
- 2. Social Security or Taxpayer Identification Number: _____
(NOTE: Submit copy of Bidder's current W-9 Form.)
- 3. In what county and state is the principal place of business? _____
- 4. Does the state in which the principal place of business or home office is located have local supplier or manufacturer preference laws? No Yes If yes, give applicable percentage: _____%, or other conditions:

5. Optional Information:

Certified Small Business Enterprise (SBE)

Check appropriate certification agency and provide certification number or identification number.

- North Central Texas Regional Certification Agency # _____
- Dallas Fort Worth Minority Business Development Council # _____
- Women's Business Council Southwest (WBCS) # _____
- Texas Department of Transportation (TXDOT) # _____
- USA Small Business Administration 8(a) # _____
- Other (Please Define): _____ # _____

Certified Disadvantaged, Minority, and/or Woman-Owned Business Enterprise (DMWBE)

Check appropriate certification agency and provide certification number or identification number.

- North Central Texas Regional Certification Agency # _____
- Dallas Fort Worth Minority Business Development Council # _____
- Women's Business Council Southwest (WBCS) # _____
- Other (Please Define): _____ # _____

Check appropriate DMWBE classification.

- | | |
|---|---|
| <input type="checkbox"/> Black American Owned | <input type="checkbox"/> Black American Woman Owned |
| <input type="checkbox"/> Hispanic American Owned | <input type="checkbox"/> Hispanic American Woman Owned |
| <input type="checkbox"/> Asian Pacific American Owned | <input type="checkbox"/> Asian Pacific American Woman Owned |
| <input type="checkbox"/> American Indian Owned | <input type="checkbox"/> American Indian Woman Owned |
| <input type="checkbox"/> Other (Please Define): _____ | <input type="checkbox"/> Caucasian Woman Owned |

Certified State of Texas Historically Underutilized Business (HUB): ID Number: _____

Additional Comments if Desired:

2f WORK FORCE COMPOSITION

NAME OF BIDDING FIRM / CONTRACTOR

DATE

Classification	American Indian or Alaskan Native			Asian or Pacific Islander			Black			Hispanic			White			Total Number of Full Time Employees				
	M	F	%	M	F	%	M	F	%	M	F	%	M	F	%	M	F	ALL	%	
M=Male / F=Female																				
Officials and Managers																				
Professionals																				
Technicians																				
Sales Workers																				
Administrative Support Workers																				
Craft Workers																				
Laborers and Helpers																				
Service Workers																				
TOTAL																				

Definitions in accordance with Equal Employment Opportunity (EEO)

American Indian or Alaskan Native	A person having origins in any of the original peoples of North America, and who maintain their culture through a tribe or community
Asian or Pacific Islander	A person having origins in any of the original people of the Far East, Southeast Asia, India, or the Pacific Islands. These areas include, for example, China, India, Korea, the Philippine Islands, and Samoa.
Black	A person having origins in any of the black racial groups of Africa.
Hispanic	A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
White	A person with origins in Europe, North Africa, or the Middle East.

REMARKS:

Oct-09

2g CUSTOMER REFERENCE FORM

NUMBER OF YEARS IN BUSINESS OF PROVIDING GOODS SPECIFIED: _____

1. Company: _____

Location: _____

Contact Information: _____

Phone #: _____ Email: _____

Products Provided: _____

Volume: _____ Value: _____ Contract Period: _____

2. Company: _____

Location: _____

Contact Information: _____

Phone #: _____ Email: _____

Products Provided: _____

Volume: _____ Value: _____ Contract Period: _____

3. Company: _____

Location: _____

Contact Information: _____

Phone #: _____ Email: _____

Products Provided: _____

Volume: _____ Value: _____ Contract Period: _____

4. Company: _____

Location: _____

Contact Information: _____

Phone #: _____ Email: _____

Products Provided: _____

Volume: _____ Value: _____ Contract Period: _____

2h CONTRACTING PROHIBITIONS VERIFICATION

I, _____, on behalf of Bidding Firm, verify that:
(Authorized Official)

- 1) Bidder does not engage in any of the activities stated in General Terms and Conditions, Section 9: Contracting Prohibitions: As Required by State Law; and
- 2) This verification will apply to any contract awarded to Bidder.

Date: _____

Bidding Firm: _____

Signature: _____

Name: _____

Title: _____

Notary Public

My Commission Expires: _____

See Texas Government Code; Chapter 2252; Subchapter F; Prohibition on Contracts with Certain Companies (including Section 222.152 and 2252.153); Chapter 2270; Prohibition on Contracts with Companies Boycotting Israel; and Chapter 2270; Prohibition on Investing Public Money in Certain Investments (including Sections 2270.00001, 2270.0102 and 2270.0152).

2i (1) COMMITMENT TO SMALL BUSINESS ENTERPRISE (SBE)

PARTICIPATION FORM

(This form is required as part of the Bid/proposal submission.)

The SBE goal for Solicitation/Contract # 7006684 is 0 %.

NOTE: The BDDD will only credit SBE participation that is certified by an approved certification entity at the time of Bid/proposal submission. DBE certificates will no longer be accepted for SBE credit. Effective 10/1/12, in addition to having a valid certification, SBEs must also have a place of business in the Airport's market area¹ at the time of Bid/proposal submission for credit towards meeting a Contract goal.

The undersigned Contractor has satisfied the requirements of the Bid/proposal specifications in the following manner. (Please check (✓) the appropriate space):

- Self-Performance: The proposer, a certified SBE firm, is committed to meeting or exceeding the SBE goal through self-performance.
- Self-Performance & Percentage Participation: The proposer, a certified SBE firm, is committed to meeting or exceeding the SBE goal, with a minimum of ____% self-performance and a minimum of ____% SBE subcontracting participation on this contract.
- Percentage Participation: The proposer is committed to meeting or exceeding the SBE goal, with a minimum of ____% SBE subcontracting participation on this contract.
- The Contractor is unable to meet the SBE goal of 0 % and is committed to a minimum of _____% SBE utilization on this contract and submits documentation demonstrating good faith efforts.
- The Contractor is unable to meet the SBE goal of 0 % and submits documentation demonstrating good faith efforts.

Name of Prime Contractor: _____

Signature Title

Printed Name Date

¹ The Airport's market area is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall, and Wise counties.

2i (2) SCHEDULE OF SUBCONTRACTORS¹ (PRELIMINARY)

Prime Bidder/Contractor: _____

SBE MBE WBE NON-S/M/WBE

Contract Name: Uninterruptable Power Supply Batteries

Contract/Solicitation Number: 7006684

As part of the procedures for the submission of a completed Bid/proposal, all Bidders/proposers are required to identify ALL participating subcontractors applicable to the above project and include this form as part of the Bid. Check all Certification Status categories that apply to each subcontractor; however, **only the shaded category shall be credited towards the established diversity goal.** Verify that the proposed subcontractor-for-credit has a place of business in the Airport's Relevant Market Area³ (not applicable to DBE goals). The submission of this information is considered an issue of responsiveness, and the Airport Board will not award a contract to any Contractor who has not supplied this documentation. Use additional sheets if necessary.

Name of Subcontractor(s)	Certification Status ² (check the applicable)				Market Area ³ County	Description of Material or Service Being Provided or Performed	Dollar Amount and Percentage of Work	
	SBE	MBE	WBE	NON			\$\$\$	%
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	Dollar Amount & Percentage of Work to be completed by Non-SBE Subcontractors							
	Dollar Amount & Percentage of Work to be completed by SBE Subcontractors							
	Dollar Amount & Percentage of Work to be self-performed by the Prime							
	Total Dollar Amount & Percentage of Work (The Total Amount shall equal the amount proposed on summary of bid/proposal page).							100%

NOTE: Certification certificate(s) MUST be attached to this form or Bid/proposal will be deemed non-responsive.

PRIME CONTRACTOR'S CERTIFICATION

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that if awarded the contract, this certification shall be attached thereto and become a part thereof. Failure to provide accurate and complete information or exercise positive, good faith efforts (as defined by the Board's SBE Program) in support of the Board's small/minority/woman-owned business intent and objective may result in being considered non-responsive to the Board's requirements. Furthermore, it is understood and agreed that, if awarded a contract by the Airport Board, the Contractor will not make additions, deletions or substitutions to this certified list of SBE subcontractors without the consent of the Board's Vice President of Business Diversity & Development Department (BDDD) or designee through the submittal of the SBE Form 102, Request for Approval of Change to Final Schedule of Subcontractors if this is determined to be the final schedule. The BDDD reserves the right to ensure compliance with the Board's SBE programs as deemed necessary including but not limited to audits of submitted SBE information applicable to the Contractor/Subcontractors participating on the contract.

Name and Title of Authorized Representative: _____
(Please print or type)

Signature: _____ Date: _____

¹ Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under contract to a prime Contractor on an Airport contract at any tier.
² In order to credit the participation of small/minority and woman-owned businesses, firms must be certified as SBEs by a certification agency approved by the Airport Board as defined in the SBE Policies and Administrative Procedures.
³ In addition to having a valid certification, the SBE must have a place of business in the Airport's market area at the time the Bid/proposal is submitted for credit towards meeting an SBE goal, which is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall and Wise counties.

2i (3) SCHEDULE OF SUBCONTRACTORS¹ (FINAL)

Prime Bidder/Contractor: _____

SBE MBE WBE NON-S/M/WBE

Contract Name: Uninterruptable Power Supply Batteries

Contract/Solicitation Number: 7006684

As part of the procedures for the submission of a completed Bid/proposal, all Bidders/proposers are required to identify ALL participating subcontractors applicable to the above project and include this form as part of the Bid. Check all Certification Status categories that apply to each subcontractor; however, **only the shaded category shall be credited towards the established diversity goal.** Verify that the proposed subcontractor-for-credit has a place of business in the Airport's Relevant Market Area³ (not applicable to DBE goals). The submission of this information is considered an issue of responsiveness, and the Airport Board will not award a contract to any Contractor who has not supplied this documentation. Use additional sheets if necessary.

Name of Subcontractor(s)	Certification Status ² (check the applicable)				Market Area ³ County	Description of Material or Service Being Provided or Performed	Dollar Amount and Percentage of Work	
	SBE	MBE	WBE	NON			\$\$\$	%
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
	Dollar Amount & Percentage of Work to be completed by Non-SBE Subcontractors							
	Dollar Amount & Percentage of Work to be completed by SBE Subcontractors							
	Dollar Amount & Percentage of Work to be self-performed by the Prime							
	Total Dollar Amount & Percentage of Work (The Total Amount shall equal the amount proposed on summary of bid/proposal page).							100%

NOTE: Certification certificate(s) MUST be attached to this form or Bid/proposal will be deemed non-responsive.

PRIME CONTRACTOR'S CERTIFICATION

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that if awarded the contract, this certification shall be attached thereto and become a part thereof. Failure to provide accurate and complete information or exercise positive, good faith efforts (as defined by the Board's SBE Program) in support of the Board's small/minority/woman-owned business intent and objective may result in being considered non-responsive to the Board's requirements. Furthermore, it is understood and agreed that, if awarded a contract by the Airport Board, the Contractor will not make additions, deletions or substitutions to this certified list of SBE subcontractors without the consent of the Board's Vice President of Business Diversity & Development Department (BDDD) or designee through the submittal of the SBE Form 102, Request for Approval of Change to Final Schedule of Subcontractors if this is determined to be the final schedule. The BDDD reserves the right to ensure compliance with the Board's SBE programs as deemed necessary including but not limited to audits of submitted SBE information applicable to the Contractor/subcontractors participating on the contract.

Name and Title of Authorized Representative: _____

(Please print or type)

Signature: _____ Date: _____

¹ Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under contract to a prime Contractor on an Airport contract at any tier.
² In order to credit the participation of small/minority and woman-owned businesses, firms must be certified as SBEs by a certification agency approved by the Airport Board as defined in the SBE Policies and Administrative Procedures.
³ In addition to having a valid certification, the SBE must have a place of business in the Airport's market area at the time the Bid/proposal is submitted for credit towards meeting an SBE goal, which is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall and Wise counties.

2i (4) INTENT TO PERFORM CONTRACT AS A SBE SUBCONTRACTOR¹ (Rev 05/01/2018)

Submission of the **Intent to Perform as a SBE Subcontractor** form for each SBE firm shall constitute a representation by the Prime Contractor to the Airport Board that it believes such SBE to be certified as a SBE to perform the work as designated, the SBE has a place of business in the Airport Board's market area and the SBE is not affiliated with the Contractor as defined herein. It shall also represent a commitment by the Contractor that if it is awarded the Contract, it will enter into a subcontract with such SBE for the work described at the approximate price and percentage set forth.

PRIME CONTRACTOR / CONSULTANT			
Contract / Solicitation Number:		7006684	
Name of Prime Contractor:			
Address, City, State and Zip Code:			
The Prime Contractor designates the following person as their high-level official designated to administer and coordinate the efforts to carry out the SBE policy on behalf of the Prime Contractor.			
Name:		Title:	
E-Mail Address:		Phone Number:	
DECLARATION OF PRIME CONTRACTOR			
I HEREBY DECLARE AND AFFIRM that as a duly authorized representative of the Prime Contractor stated above, I have personally reviewed the material and facts set forth in this form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true and the owner or authorized agent of the SBE firm stated above signed this form in the place indicated, and no material facts have been omitted. The undersigned affirms that the Prime Contractor has no ownership or financial interest in the SBE subcontracting firm stated below. Except as authorized by the Vice President of Business Diversity & Development Department or his designee, the undersigned shall enter into a formal agreement (which shall include all audit and records provisions required by the Board) with the listed SBE firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by the Airport. The undersigned will, if requested, provide said Vice President or his designee a copy of that agreement within five (5) business days of the written request. Pursuant to State Law, any person [entity] who makes a false or fraudulent statement in connection with the participation of a SBE in any locally funded project or otherwise violates applicable program requirements may be referred for prosecution.			
Signature of Prime Contractor:		Date	
SBE SUBCONTRACTOR / SUBCONSULTANT / SUPPLIER AT ANY TIER			
The Airport requires that small business enterprises be certified as SBEs by an approved certification agency as defined in the SBE Program Policy and Procedures. Effective 10/1/12, in addition to having a valid certification, SBEs must have a place of business in the Airport's market area ¹ at the time of bid/proposal submission for credit towards meeting a contract goal.			
The undersigned SBE subcontractor has a place of business in the Airport's market area.		<input type="checkbox"/> Yes <input type="checkbox"/> No	
The undersigned SBE subcontractor is not affiliated with the Prime Contractor as defined in the SBE Program Policies and Procedures.		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Name of SBE Subcontractor:			
Address, City, State and Zip Code:			
Contact Person:			
E-Mail Address:		Phone Number:	
Scope of Work: (where applicable specify "supply" or "install" or both)			
Price:			
SBE Certification #:		Certification Agency:	
Percentage (%) of the proposed subcontract described above will be sublet and/or awarded to a Non-SBE subcontractor.		_____ %	
If the SBE shown above is not a direct first tier subcontractor, subconsultant or supplier to the Prime Contractor shown above, please indicate the name of the subcontractor, subconsultant or supplier <u>and</u> tier level that will be utilizing your participation for SBE credit.			
DECLARATION OF SBE SUBCONTRACTOR			
I HEREBY DECLARE AND AFFIRM that as a duly authorized representative of the Subcontractor stated above, the facts and representations contained in this form are true. The undersigned affirms that the Prime Contractor has no ownership or financial interest in the SBE subcontracting firm stated above. I also agree, for good and valuable consideration (including the opportunity to participate in this solicitation as a proposed subcontractor), the receipt and sufficiency of which is hereby acknowledged, that if the Subcontractor performs any work for the Prime Contractor as the result of a contract awarded to the Prime Contractor for this solicitation, the Subcontractor will maintain and the Board shall have the right to examine and make copies of all records, documents, books, statements, checks, invoices, and any other supporting evidence deemed necessary by the Board to substantiate compliance with the terms of this Contract, including any Change Orders. Such right of examinations shall include, but not be limited to, reasonable access to and cooperation by all Subcontractor personnel. Subcontractor agrees to provide the Board with retrievals of computer-based records or transactions that the Board determines to be necessary to conduct any audits. Subcontractor agrees that there shall be no charge to the Board for Subcontractor's costs of providing records, documents, and assistance for audits, and to provide to the Board within seven (7) calendar days all records, documents, retrievals, and other assistance requested.			
Signature of SBE Subcontractor		Date	

¹ Any named person, firm, partnership, corporation, association or joint venture as herein provided identified as providing work, labor, services, supplies, equipment, materials or any combination of the foregoing, under contract to a prime contractor on an Airport contract at any tier.

² The Airport's market area is defined as the North Texas Commission twelve-county area of Dallas, Tarrant, Collin, Delta, Denton, Ellis, Hunt, Johnson, Kaufman, Parker, Rockwall and Wise counties.

2i (5) GOOD FAITH EFFORT (GFE) PLAN CRITERIA

NOTE: Include a response to GFE criteria and support documentation in Bid/proposal only if the D/S/M/WBE goal is not achieved.

The following factors are taken into account when assessing a good faith effort response. These factors are minimally considered as good faith efforts and demonstrate specific initiatives made in attempting to achieve the applicable contract-specific Disadvantaged/Small/Minority/Women Business Enterprise (D/S/M/WBE) goal. These factors should not be considered as a template, checklist or some quantitative formula. Proposers are required to meet all factors outlined below and provide support documentation in order for the good faith effort plan to be assessed. Mere pro forma efforts are not good faith efforts to meet the D/S/M/WBE contract requirements. This means that a Bidder/proposer must show that it took all necessary and reasonable steps to achieve a D/S/M/WBE goal or other requirement of this GFE which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient D/S/M/WBE participation, even if they were not fully successful. DFW will evaluate the GFE on quality, quantity, and intensity of the different kinds of efforts that the Bidder/proposer has made, based on the regulations and the guidance in Code of Federal Regulations.

NOT SUBMITTING PROPER SUPPORT DOCUMENTATION IS NOT EVIDENCE OF A PROPER DEMONSTRATION OF GOOD FAITH EFFORT. SUBMITTAL OF THE CRITERIA, WITH NO ADDITIONAL DOCUMENTATION, WILL NOT BE CONSIDERED ADEQUATE DEMONSTRATION OF GOOD FAITH EFFORT. Proposers are not limited to these particular areas and may include other efforts deemed appropriate. Complete form and attach support documentation only if the D/S/M/WBE goal is not achieved. For additional guidance concerning Good Faith Efforts, please refer to the Electronic Code of Federal Regulations (CFR 49 part 26 Appendix A).

GOOD FAITH EFFORT FACTORS
Whether the contractor/vendor/Bidder conducted market research to identify small business contractors and suppliers and solicit through all reasonable and available means the interest of all certified D/S/M/WBEs that have the capability to perform the work of the contract. This may include attendance at any pre-Bid or pre-proposal meetings to discuss subcontracting and supplier opportunities (acceptable documentation shall include copies of the meeting sign-in sheets with contractor name noted as signed-in) and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all D/S/M/WBEs listed in the State and/or Local respective directories of firms that specialize in the areas of work desired (as noted in the D/S/M/WBE directory) and which are located in the area or surrounding areas of the project.
Whether the contractor/vendor/Bidder advertised in general circulation, trade association, and/or D/S/M/WBE focused media concerning subcontracting and supplier opportunities (acceptable documentation shall be copies of advertisement, newspaper page where advertisement was posted or print media confirmations);
Whether the contractor/vendor/Bidder should solicit this interest as early in the acquisition process being at least five (5) business days prior to Bid opening as practicable to allow the D/S/M/WBEs to respond to the solicitation and submit a timely offer for the subcontract. The Bidder/proposer should determine with certainty if the D/S/M/WBEs are interested by taking appropriate steps to follow up initial solicitations at least three (3) business days prior to Bid opening to determine with certainty whether the DBEs were interested (appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or email, if Bidder/proposer failed to make contact on its first attempt).
Whether the contractor/vendor/Bidder selected portions of the work to be performed by D/S/M/WBEs in order to increase the likelihood that the D/S/M/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate D/S/M/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates D/S/M/WBE participation.
Whether the contractor/vendor/Bidder provided interested D/S/M/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract. The ability or desire of a contractor/vendor/Bidder to perform the services of a contract with its own workforce does not relieve the contractor/vendor/Bidder of the responsibility to meet the contract goal or demonstrate good faith efforts to do so (The Bidder/proposer shall make a moderate and reasonable adjustment to the normal and practiced industry standard that demonstrates a reasonable willingness to divide up scopes of work to provide more opportunities for D/S/M/WBEs to Bid/quote).

<p>Whether the contractor/vendor/Bidder negotiated in good faith with interested D/S/M/WBEs. It is the Bidder's/proposer's responsibility to make a portion of the work available to D/S/M/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available D/S/M/WBE subcontractors and suppliers, so as to facilitate D/S/M/WBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of D/S/M/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for D/S/M/WBEs to perform the work.</p>
<p>Whether the contractor/vendor/Bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including D/S/M/WBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using D/S/M/WBEs is not in itself sufficient reason for a Bidder's/proposer's failure to meet the contract D/S/M/WBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Bidder/proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from D/S/M/WBEs if the price difference is excessive or unreasonable.</p>
<p>Whether the contractor/vendor/Bidder did not reject D/S/M/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of Bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the D/S/M/WBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Bidder/proposer or prime contractor to accept unreasonable quotes in order to satisfy contract goals.</p>
<p>Whether the contractor/vendor/Bidder prime contractor's inability to find a replacement D/S/M/WBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original D/S/M/WBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement D/S/M/WBE, and it is not a sound basis for rejecting a prospective replacement D/S/M/WBE's reasonable quote.</p>
<p>Whether the contractor/vendor/Bidder make efforts to assist interested D/S/M/WBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.</p>
<p>Whether the contractor/vendor/Bidder make efforts to assist interested D/S/M/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.</p>
<p>Whether the contractor/vendor/Bidder effectively use the services of available minority/women community organizations; minority/women contractors' groups; Local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of D/S/M/WBEs.</p>
<p>Whether the contractor/vendor/Bidder in determining whether a Bidder/proposer has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, DFW will review the performance of other Bidders/proposers in meeting the contract goal. For example, when the apparent successful Bidder/proposer fails to meet the contract goal, but others meet it, DFW may reasonably raise the question of whether, with additional efforts, the apparent successful Bidder/proposer could have met the goal. As provided in §26.53(b)(2)(vi), the Bidder must submit copies of each D/S/M/WBE and non-D/S/M/WBE subcontractor quote submitted to the Bidder when a non-D/S/M/WBE subcontractor was selected over a D/S/M/WBE for work on the contract to review whether D/S/M/WBE prices were substantially higher; and contact the D/S/M/WBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to D/S/M/WBEs requesting Bids are not alone sufficient to satisfy good faith efforts under the rule.</p>
<p>Whether the contractor/vendor/Bidder promise to use D/S/M/WBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.</p>

FOR DFW BUSINESS DIVERSITY & DEVELOPMENT USE ONLY:

Plan Reviewed by: _____

Date: _____

Signature of D/S/M/WBE Liaison: _____

Recommendation: Approval: _____ Denial: _____

2i (6) REQUEST FOR APPROVAL OF CHANGE TO ORIGINAL SCHEDULE OF SUBCONTRACTORS

Contract/Solicitation Number: 7006684

Project Name: _____

Contractor Name: _____, requests approval of the following addition(s) and/or deletion(s) on the **SCHEDULE OF SUBCONTRACTORS (D/S/M/WBE Form No. 90)**, as originally submitted as part of the Bid on the above named project.

CHANGE

Check (X) block for each transaction

ADD	DELETE	COMPANY NAME	TRADE	D/S/M/WBE STATUS	DOLLAR AMOUNT	INTENT TO PERFORM

JUSTIFICATION

Note: the proposed change(s) must be based on good cause. The Contractor must list and explain in detail its good cause for the change. Attach additional sheets as necessary. Good cause is limited to the following circumstances: 1. The listed D/S/M/WBE subcontractor fails or refuses to execute a written contract. 2. The listed D/S/M/WBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements. 3. The listed D/S/M/WBE subcontractor becomes bankrupt, insolvent or exhibits credit unworthiness. 4. The listed D/S/M/WBE is ineligible to work on Airport projects because of suspension and debarment proceedings pursuant to federal or state law or other applicable laws or regulations. 5. BDDD has determined that the listed D/S/M/WBE subcontractor is not a responsible contractor. 6. The listed D/S/M/WBE subcontractor voluntarily withdraws from the project and provides BDDD written notice of its withdrawal. 7. The listed D/S/M/WBE subcontractor is ineligible to receive credit for the type of work required. 8. The D/S/M/WBE owner dies or becomes disabled with the result that the listed D/S/M/WBE subcontractor is unable to complete its work on the contract.

CERTIFICATION OF AFFIDAVIT

The above information is true and complete to the best of my knowledge and belief. I further understand and agree that this certification shall become a part of my contract with the Dallas Fort Worth International Airport Board.

Name and Title of Signer: _____
(Please print or type)

Signature: _____ Date: _____

Routed To:

Approved by:

(Check One)
 Design, Code, and Construction Dept.
 Procurement and Materials Management Dept.

Vice President or Designee
 Business Diversity and Development Dept.

2j (1) CERTIFICATE OF ANTI-CORRUPTION COMPLIANCE

I, _____, do hereby certify on behalf of _____ (“Contractor”) that Contractor has received a copy of the U.S. Foreign Corrupt Practices Act of 1977, as amended (“FCPA”), the DFW International Airport Board Code of Business Ethics (“Code”), and the Anti-Corruption Compliance Program policy statement of DFW International Airport (“Policy”). I further hereby certify on behalf of Contractor that Contractor understands that as an agent, contractor, consultant, sponsor, business partner, or other third party representing the DFW International Airport Board (the “Board”), that Contractor must comply with the Code, Policy, and all applicable laws, including but not limited to the FCPA and all other anti-corruption and/or anti-bribery legislation applicable to the Board. I further hereby certify on behalf of Contractor that Contractor understands the provisions of the FCPA, the Code, and Policy, and agrees to comply with those provisions and to take no action that might cause the Board to be in violation of the Code, Policy, or any applicable law, including but not limited to the FCPA or other anti-corruption and/or anti-bribery legislation applicable to the Board.

As a part of Contractor’s compliance, Contractor agrees among other things not to improperly influence, or attempt to improperly influence, any of the relatives of individuals associated with Contractor, current or former business associates, colleagues, friends, or anyone with whom individuals associated with Contractor are or become acquainted who is a foreign official (within the meaning of the FCPA, Code, and Policy), a member of a non-U.S. political party, or a candidate for non-U.S. political office.

I further hereby certify on behalf of Contractor, except as disclosed below, that I am not aware of any action that any individual associated with Contractor, any individual employed by or who has provided services on behalf of individuals associated with Contractor, or I have taken in connection with our association with Contractor in the past that could cause the Board to be in violation of the Code, Policy, or any applicable law, including but not limited to the FCPA or other anti-corruption and/or anti-bribery legislation applicable to the Board. I further hereby certify on behalf of Contractor that to the best of my knowledge and belief, except as disclosed below: (A) neither any individual associated with Contractor, any individual employed by or who has provided services on behalf of individuals associated with Contractor, nor I have made, offered, or promised any payment or gift of money or anything of value, directly or indirectly, to any officer or employee of a non-U.S. government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of such government, or department, agency, including any employee or official of any commercial enterprise owned, controlled, or operated by a government other than the United States, or any non-U.S. political party or party official or candidate for non-U.S. political office in order to influence an act or decision that will assist the Board in obtaining or retaining business or in directing business to anyone else; and (B) neither any individual associated with Contractor, any individual employed by or who has provided services on behalf of individuals associated with Contractor, nor I have engaged in any prohibited conduct or behavior under the Code, Policy, or any applicable law, including but not limited to the FCPA or other anti-corruption and/or anti-bribery legislation applicable to the Board. *(If no disclosures are required, please indicate by inserting “None” in the space below. If additional space is required please attach an additional sheet.)*

Questions regarding this form, the Code, the Policy, or any applicable law, including but not limited to the FCPA or other anti-corruption and/or anti-bribery legislation applicable to the Board should be addressed to a Board representative (who should address with them with the General Counsel or his or her designee) or directly to the General Counsel or his or her designee.

Signature

Date

2j (2) FCPA DISCLOSURE STATEMENT

**Foreign Corrupt Practices Act Disclosure Statement
by Applicant Wishing to Serve as an Agent or Consultant
for the
Dallas Fort Worth International Airport**

As part of its compliance program for the United States Foreign Corrupt Practices Act ("FCPA"), the Dallas Fort Worth International Airport Board (the "Airport") requires that all applicants (hereinafter referred to as the "Applicant") wishing to be considered for retention as an agent or consultant for the Airport in locations outside the United States, provide the following information.

1. General Information

a. Full name of Applicant:

--

b. Complete business address:

Telephone number:
Facsimile number:
Mobile number:

c. Indicate type of business organization of Applicant:

- Individual acting as a Sole Proprietorship
- Corporation
- Partnership
- Limited Liability Company
- Other business entity (please describe type): _____

d. Country or Countries where Applicant seeks to represent the Airport:

1 st	
2 nd	
3 rd	

(i) Is registry with a Government Authority a requirement for Applicant to conduct of business in the Country?

- | | | |
|-----------------|------------------------------|-----------------------------|
| 1 st | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2 nd | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3 rd | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

(ii) If above is "yes", is Applicant registered? If "yes", provide registration or tax number

	Yes	No	Registration or Tax Number
1 st	<input type="checkbox"/>	<input type="checkbox"/>	
2 nd	<input type="checkbox"/>	<input type="checkbox"/>	
3 rd	<input type="checkbox"/>	<input type="checkbox"/>	

2. Has Applicant ever provided services for the Airport?

Yes No

3. Has Applicant represented other clients with respect to the conduct of a similar business within the Country?

If "yes", please list all such former or present clients:

4. Has Applicant, any employees of the Applicant or any director or owner of the Applicant ever been the subject of an investigation or criminal law violations, or been convicted of a crime?

If "yes", please give details below:

5. Please list all current and former directors and officers of Applicant (if a business) and all current and former employees of Applicant (if Applicant has fewer than 10 employees):

6. Please list every former or current owner of Applicant (and indicate their period of ownership if a former owner):

7. Please list every company or other business entity which is affiliated with Applicant (an affiliate is a company that Applicant owns at least 10% of):

8. If Applicant is a company, then has any owner, director, officer or employee (former or current) of Applicant served in a salaried or appointive position within the Government of the Country?

Yes No

9. Indicated below whether or not the following is a correct statement (for individual Applicants).

Neither Applicant, Applicant's spouse, nor any member of Applicant's or Applicant's spouse's family, is now serving, or ever has served, in a salaried or appointive position within the Government of the Country?

Correct Not Correct

If "Not Correct" was selected, please provide details:

--

10. Has Applicant ever conducted business under an alias, assumed name, trade name or used any other business name other than the full business name listed above?

Yes No

If "yes", please list the other names below:

11. If Applicant is an individual, please list:

a. Every other business for which Applicant is now, or ever has been employed:

b. Every publicly-traded company in which Applicant owns more than a 5% ownership interest:

c. Every non publicly-traded company or other business entity in which Applicant holds an ownership interest:

12. Please list **THREE** unaffiliated business contacts, and at least one banking institution contact, which the Airport may contact for reference purposes for Applicant:

a. Business Contacts

Name:	
Business Relationship:	
Address	
Telephone number:	
Mobile number:	

Name:	
Business Relationship:	
Address	
Telephone number:	
Mobile number:	

Name:	
Business Relationship:	
Address	
Telephone number:	
Mobile number:	

b. Banking Contact

Name:	
Business Relationship:	
Address	
Telephone number:	
Mobile number:	

13. Are you familiar with the prohibitions of the United States Foreign Corrupt Practices Act?

Yes No

14. Have you previously been accused of violating the United States Foreign Corrupt Practices Act or engaging in any practice, which would be deemed to be making of an improper payment to a public official?

If so, please explain:

15. Full name of person completing this form for Applicant:

Signature: _____

Name: _____

Title/Designation: _____

Telephone Number: _____

Date: _____

2k BID ENDORSEMENT FORM

The undersigned, in submitting this Bid and endorsement of same, represents that he/she is authorized to obligate his/her firm, and that he/she has read this entire Solicitation package, is aware of the covenants contained herein and will abide by and adhere to the expressed requirements.

THE BIDDER AGREES THAT THIS BID, INCLUDING THE BID PRICING FORM, WHEN ACCEPTED BY THE AIRPORT SHALL CONSTITUTE A CONTRACT EQUALLY BINDING BETWEEN THE BIDDER AND THE AIRPORT. Acceptance may take the form of an Acceptance Letter or Purchase Order issued by the Airport, or a Contract document issued by the Airport and executed by both parties, followed by a Notice to Proceed issued by the Airport. Each of these forms constitutes a legal contract equally binding between the Successful Bidder and the Airport. After Bid acceptance, no different or additional terms shall become part of the Contract without a properly executed change order.

BID FOR SOLICITATION NO.: 7006684

SUBMITTED BY:

(OFFICIAL NAME OF BIDDING FIRM)

By: _____
(Original Signature of Bidding Firm's Authorized Agent)

Must be signed for Bid to be considered responsive

(Typed or Printed Name)

(Title)

(Email)

(Telephone Number)

(Date Signed)