REQUEST FOR PROPOSAL
RFP 10-11-14

AIRPORT PARKING OPERATIONS

AND

MANAGEMENT

Date: May 9, 2011
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1 INTRODUCTION

The City of San Jose (City) is seeking Proposals from qualified firms to provide Parking Operations and Management Services at the Norman Y. Mineta San Jose International Airport (Airport). It is the Airport’s intent to contract with an outside firm for the purpose of administration, management, staffing and operation of Parking facilities, equipment and services. The selected Proposer shall be responsible for providing all labor, equipment and materials required for these services except as identified herein. Only a brief description of the Scope of Services is provided in this section. A detailed Scope of Services is provided in Attachment A, entitled “Scope of Services”.

2 BACKGROUND

Currently the Norman Y. Mineta San Jose International Airport parking facilities are operated by Ampco Systems Parking which provides management, operations and personnel for all parking lots and parking garages located on Airport property for use by the public and employees working at Airport facilities. Over the past four (4) years the City has modernized the Airport to include access roads and parking garages that have been improved with a new parking and revenue control system.

3 PROJECT GOALS AND OBJECTIVES

The objective of this Request for Proposal (RFP) is to enter into an Agreement with a company that has a proven track record in providing high quality Parking Operations and Management Services preferably at a similar facility or facilities, with an impeccable management and safety record, where the City can leverage the awarded Contractor’s expertise and experience to work independently and professionally, service the public, and forge a long term relationship that offers efficiencies, cost savings, and ingenuity in resolving issues.

4 MINIMUM QUALIFICATIONS

A Proposer will be considered “non-responsive” to this request and disqualified from further consideration if the following minimum qualification is not met.

4.1 Proposing companies must have professional experience providing Parking Operation and Management Services on a continual basis for the past five (5) years. Proposing companies must certify that they meet this requirement in the Proposal Certification, Attachment C.

5 TERM OF AGREEMENT

This contract is anticipated to be awarded in September 2011 with Contractor to begin operations and management service responsibilities on November 1, 2011. The Agreement will be for an initial three-year term with the City in its sole discretion retaining the right to exercise five one-year options to renew the Agreement for a total of eight years.
6 COMPLETE RFP

This document describes the goals and objectives of this procurement, the RFP process, and RFP provisions. In addition, the following attachments, exhibits and/or appendices are included:
6.1 ATTACHMENTS:

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<td>Scope of Services</td>
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<td>Cost Proposal Form</td>
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<td>C</td>
<td>Proposal Certification Form</td>
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<td>D</td>
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<td>E</td>
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<tr>
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<td>Exemplar Agreement (Exhibit G, Insurance Requirements) (Exhibit H,</td>
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<td>Airport Contractor Disadvantaged Business Enterprise (ACDBE)</td>
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<td>G</td>
<td>Summary of Primary Provisions of Norman Y. Mineta San Jose</td>
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<td>International Airport Living Wage, Worker Retention, Labor Peace</td>
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<td>and Employee Work Environment</td>
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<td>G-1</td>
<td>Airport Living Wage Determination</td>
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<td>G-3</td>
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7 PROCUREMENT TIMELINE

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>May 9, 2011</td>
<td>RFP Released</td>
</tr>
<tr>
<td>May 23, 2011</td>
<td>Mandatory Pre-Proposal Conference</td>
</tr>
<tr>
<td>May 25, 2011</td>
<td>Deadline for Objections and Questions</td>
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<tr>
<td>May 27, 2011</td>
<td>City’s Response to Written Questions</td>
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<tr>
<td>June 13, 2011</td>
<td>RFP Due Proposal submission due date: <strong>June 13, 2011</strong></td>
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<tr>
<td><strong>3:00PM PST</strong></td>
<td>Deliver Proposal by: <strong>3:00 PM PST</strong></td>
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<td></td>
<td>Deliver To: City of San Jose</td>
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<tr>
<td></td>
<td>Finance Department/Purchasing Division</td>
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<tr>
<td></td>
<td>200 E. Santa Clara St.</td>
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<tr>
<td></td>
<td>13th Floor, Tower</td>
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<tr>
<td></td>
<td>San Jose, CA 95113</td>
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<tr>
<td></td>
<td>Attn: Carla Mehrkens</td>
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<td></td>
<td>***Note that late Proposals shall not be accepted per</td>
</tr>
<tr>
<td></td>
<td>Section 14 of this RFP***</td>
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</table>
8 CONTACT INFORMATION

City of San Jose
Finance/Purchasing, 13th Floor
200 E. Santa Clara St.
San Jose, CA 95113
Attn: Carla Mehrkens.

Phone: (408)535-7059
Fax: (408)292-6480
E-mail: carla.mehrkens@sanjoseca.gov

9 HOW TO OBTAIN THIS RFP

9.1 This RFP may be downloaded from the BidSync e-Procurement system located at www.bidsync.com. Suppliers can also find a link at the City of San Jose Bid-Line Web site at www.sanjoseca.gov/purchasing/default.asp. At either Web site, follow the links to register for the on line service. You may register for free either on-line or by calling BidSync Vendor Support at 1-801-765-9245 and telling the support representative that you are registering for City of San José procurements.

9.2 All addenda and notices related to this procurement will be posted by the City on BidSync. In the event that this RFP is obtained through any means other than BidSync, the City will not be responsible for the completeness, accuracy, or timeliness of the final RFP document.

10 PRE PROPOSAL CONFERENCE

10.1 DATE AND TIME

A Mandatory Pre-Proposal Conference will be held on May 17, 2011 from 9:00 AM –12: 00 PM Pacific Time. This meeting requirement may be met only by attending in-person. The purpose of this meeting is for City Staff to present an overview of the RFP, and answer any questions. City Staff reserves the right not to answer any questions that are not applicable or inappropriate. At its discretion, City Staff may defer certain questions and respond to all Proposers in writing after the meeting.

10.2 INSTRUCTIONS FOR ATTENDING IN-PERSON:

Location: Mineta San Jose International Airport
Airport Administrative Offices
1701 Airport Blvd. Suite B1130
San Jose, CA  95110

You may park in the Terminal A Parking Garage in the South end of the Garage and walk across the street to the Terminal Building. The Airport Administrative offices are North of the flag poles. The Airport will validate parking.
11 **PROCEDURE FOR SUBMITTING QUESTIONS AND INQUIRIES**

Questions pertaining to this RFP should be submitted via BidSync. Please submit all questions by the deadline indicated in the procurement timeline, Section 7. The City will provide a written response to all pertinent questions in the form of an Addendum.

12 **OBJECTIONS**

Any objections as to the structure, content or distribution of this RFP must be submitted in writing to the purchasing contact identified in Section 8 prior to the submission deadline for Questions and Answers. Objections must be as specific as possible, and identify the RFP section number and title, as well as a description and rationale for the objection.

13 **SUBMISSION OF PROPOSALS**

13.1 Submit one (1) original and five (5) copies of the technical Proposal clearly marked as such to the address designated in Section 7. The outside of the box or package and the cover or title page of each Proposal shall be marked as follows: RFP 10-11-14 Airport Parking & Management Proposal. In addition, include an electronic copy of your Proposal on a CD or DVD, in PDF format.

13.2 Submit one (1) original version of your cost Proposal (Attachment B) in a separate sealed envelope clearly marked on the outside: RFP 10-11-14, Airport Parking Operations & Management Cost Proposal. Include an electronic copy on the CD or DVD required in Section 13.1.

13.3 Refer to the procurement timeline in Section 7 for due dates and delivery locations.

13.4 All Proposals shall be submitted as hard copy bound documents (Proposers may use a 3 ring binder of sufficient size to hold all documents). The Original hard copy version of the Proposal will be considered the official Proposal submission.

13.5 Hard copy RFP documents are to be printed on paper that contains a minimum of 30% PCW, Chlorine Free. 100% PCW, Chlorine Free is preferred.

13.6 All pages shall be sequentially numbered and a table of contents shall be provided.

13.7 Major sections of the Proposal are to be delineated with section numbers to coincide with the Table of Contents.

13.8 The font size on each page shall be 11 point Times New Roman or Arial font.

13.9 The pages shall be double sided with a maximum of one and one half line spacing.

14 **LATE PROPOSALS**

Late Proposals shall be rejected and returned to the Proposer. This deadline is absolute and Proposals received after the due date and time shall not be considered.
Proposers must select a method of delivery that ensures Proposals will be delivered to the correct location by the due date and time.

15 RESPONSE DOCUMENTS / SUBMISSION REQUIREMENTS

In order to expedite the evaluation process, each Proposal shall be organized in accordance with this section. Proposals that do not follow the specified format outlined below, or fail to provide the required documentation, may receive lower scores, or if found to be non-responsive, be disqualified. In the event of any conflict between any of the Proposal documents, resolution thereof shall be in the City’s sole discretion. Proposals shall include the following information in the order and format indicated.

15.1 COVER LETTER / EXECUTIVE SUMMARY

Include a transmittal letter identifying the Contractor’s firm, a brief summary of the firm’s background and the Proposal package being submitted. Include other important general information that is deemed significant enough to be highlighted. The letter shall provide the name, title, address, telephone number, e-mail address and fax number of the individual authorized to contractually bind the firm and be signed by the authorized individual.

Include a summary containing highlights of the Proposal approach, describing how the project team would be organized, and how the Contractor will ensure responsiveness to City staff and scope of services requirements.

15.2 TECHNICAL RESPONSE

15.2.1 Staffing Plan  to include:

15.2.1.1 Key Personnel Assignments, Responsibilities and Experience; include a one-page Resume for each Key Employee who would be assigned to the Airport. To include the following:

- GENERAL MANAGER
- SUPERVISORY STAFF:
- ADMINISTRATIVE STAFF:
- CUSTOMER SERVICE STAFF:

15.2.1.2 Provide a detailed staffing plan for all other staff to include supervisors, auditors, cashiers, customer service staff and other staff to meet the requirements of Section 5.2 of Attachment A1 Scope of Services.

15.2.2 References: Proposing companies should also provide three references using Attachment E titled “Previous Customer Reference Form” that supports the following qualifications:

15.2.2.1 One of the three references should demonstrate the Proposers has experience operating a parking facility at an Airport with a Parking Management operation that processes vehicles using an automated parking access and revenue control system, with automated lanes and pay stations. Proposing companies should provide the manufacturer and model number of the parking revenue control systems along with this reference.
15.2.2 The remaining two references should demonstrate the Proposer’s experience in parking management service in facilities with a minimum of 3,000 parking spaces, operating 24 hours per day, and with annual gross revenues of $8 million dollars or more.

15.2.3 Management Plan, including:

15.2.3.1 Proposed Operating Procedures the Proposer shall submit sample procedures for the management, operations, maintenance, cash handling and auditing functions, including internal controls and user access controls for all covered parking operations and facilities

15.2.3.2 Proposed training program(s) including start-up and recurrent training of staff.

15.2.4 Transition Plan: Proposer shall provide a written procedures relating to the transition process of management, operation and maintenance of the Parking Facilities from its predecessor and to its successor. The plan should provide details with a thorough implementation control schedule for systematically taking over these services with minimal disruption to the Airport.

15.2.5 Proposers should provide a written plan to provide and maintain PCI compliance and certification as the bankcard merchant

15.2.6 Financials: Provide a balance sheet and income statements for the last three (3) fiscal years prepared in accordance with Generally Accepted Accounting Principles (GAAP), reflecting the current financial condition of Contractor entity and its parent corporation, if applicable. If this is a new partnership or joint venture, submit a financial statement for each business entity of the partnership or joint venture.

15.2.6.1 Provide an interim balance sheet and income statement of any significant financial events occurring subsequent to the closing date of the most recent financial statements

15.2.7 Proposers are also encouraged to provide a list of additional services for the Airport’s consideration which shall be provided at no additional cost to enhance current services

15.2.8 Provide City any additional information from your firm you feel is pertinent to this solicitation.

15.2.9 Specifically address how the Proposer will support the goals and objectives of the City’s Environmentally Preferable Procurement Policy (EP3) (Section 32).

15.3 COST PROPOSAL

15.3.1 Complete Attachment B Cost Proposal form and submit in accordance with Section 13.2

15.4 ATTACHMENTS

15.4.1 Required Attachment Submittals – The following documents must be completed and submitted with your technical Proposal:
15.4.1.1 Attachment C, Proposer Certification

15.4.2 Additional Attachment Submittals

15.4.2.1 Attachment E, Previous Customer Reference Worksheet

Three references that substantiate the Contractor’s experience in Parking Management services as required per Section 15.2.2. Reference contacts should be individuals who can verify performance on projects of a similar scope, and budget of this project.

15.4.2.2 Attachment D, Proposer Questionnaire

15.4.2.3 Attachment F, Exemplar Agreement with Exhibits. Note any exceptions to the Terms and Conditions of the Exemplar Agreement. If there are no exceptions, please return the first page of the Agreement marked “No Exceptions”. Please note that excessive changes may result in lower Proposal scores, or disqualification of Proposal.

15.4.2.4 Attachment G-3, Employee Work Environment and Labor Peace Questionnaire

15.4.3 Post Award Submittal Requirements

The selected Proposer is required to submit the following documents within ten days from the final day of the protest period date after the Recommendation of Award. Failure to provide the documents within this time frame may result in withdrawal of the award recommendation, and selection of the next highest ranked Proposer for award.

15.4.3.1 Attachment F, Exhibit G- Insurance Requirements – Certificate of Insurance

16 REVIEW PROCESS AND EVALUATION CRITERIA

16.1 PROPOSAL RESPONSIVENESS.

16.1.1 Required Documentation: Proposals will be reviewed to determine if all required documentation was included with the Proposal submittal as described in Section 15.

16.1.2 Proposals that fail to contain the required documents with their technical and cost Proposals will be disqualified from further consideration.

16.2 PROPOSAL REVIEW AND EVALUATION.

16.2.1 Technical Proposals will be evaluated against the general criteria and weighted scores will be applied as described in 17.6.

16.2.2 The City may seek written clarification from any or all Proposers in order to better understand and evaluate the submitted Proposals. This process may not be used as an opportunity to submit missing documentation or to make substantive revisions to the original Proposal.
16.3 COST PROPOSAL REVIEW AND EVALUATION.

Pricing will be evaluated and weighted in accordance with the table in Section 16.6. Pricing shall be firm fixed for the first three year term. During this period the price may not change.

16.4 PRESENTATIONS/ORAL INTERVIEWS.

Finalists (Proposals determined to have scored in the competitive range) may be invited to present oral presentations for the purpose of introducing key members of the project team, and allowing the City to fully understand the Proposer’s ability to meet the evaluation criteria. Oral presentations will not be scored separately. Instead the City may modify Proposal scores and resulting rankings based on the oral presentation.

16.5 BEST AND FINAL OFFER (BAFO).

16.5.1 A Best and Final Offer (BAFO) may be held with finalists that have scored in the competitive range if additional information or clarification is necessary in order to make a final decision. The BAFO may allow Proposers to revise their original technical and/or cost Proposals based on information received from the City. The City will send out the request for a BAFO with instructions addressing the areas to be covered and the date and time in which the BAFO is to be submitted. After receipt of the BAFO, scores may be adjusted based on the new information received in the BAFO.

16.5.2 The City will request only one BAFO, unless the Purchasing Officer determines in writing in the procurement file that another BAFO is warranted.

16.5.3 Proposers are cautioned that the BAFO is optional and at the sole discretion of the City. Therefore, Proposers should not assume that there would be an additional opportunity to amend their technical or price Proposals after the original submission of technical and price Proposals. Proposers may not request an opportunity to submit a BAFO.

16.6 PROPOSAL EVALUATION WEIGHTING CRITERIA

<table>
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<tr>
<th>Criteria</th>
<th>Weight</th>
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<tbody>
<tr>
<td>Technical Response / Capabilities</td>
<td>45%</td>
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<tr>
<td>Experience</td>
<td>25%</td>
</tr>
<tr>
<td>Cost</td>
<td>30%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100%</td>
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17 BASIS OF AWARD

17.1 Award will be based on the overall highest ranked Proposal score in accordance with Section 16.6.

17.2 Should the City, in its sole discretion, determine that a secondary award is required, award will be to the second highest ranked Proposer.
17.3 Should either of the selected Proposers fail to provide post award documents as required, the City, in its sole discretion, may withdraw the award recommendation, and select the next highest ranked Proposer for award.

17.4 The City reserves the right to accept an offer in- full, or in-part, or to reject all offers.

18 PROTESTS

18.1 If an unsuccessful Proposer wants to dispute the award recommendation, the Protest must be submitted in writing to the Purchasing Officer no later than ten calendar days after announcement of the successful Proposer, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes with RFP requirements and specifications, which must be addressed in accordance with Section 12. Failure to submit a timely written Protest to the Purchasing Officer will bar consideration of the Protest.

The address for submitting Protests is:

City of San Jose
200 East Santa Clara Street, 13th Floor
San Jose, CA 95113
Attention: Purchasing Officer

19 GENERAL INFORMATION

19.1 The City reserves the right to accept or reject any item or group(s) of items of a response. The City also reserves the right to waive any informality or irregularity in any Proposal. Additionally, the City may, for any reason, decide not to award an agreement as a result of this RFP or cancel the RFP. The City shall not be obligated to respond to any Proposal submitted, nor be legally bound in any manner by submission of the Proposal.

19.2 The City is not required to accept the lowest price Proposal. Responses will be evaluated to determine the most advantageous Proposal based on a variety of factors including but not limited to price, experience, and performance capabilities.

19.3 Any statistical information contained in this RFP is for informational purposes only. The City shall not be responsible for the complete accuracy of said data.

19.4 The City reserves the right to verify any information provided during the RFP process and may contact references listed or any other persons known to have contracted with the Proposer.

19.5 The City may require financial statements for the last two fiscal years as certified by an independent Certified Public Accountant. Do not submit these documents unless they are requested.
20 GROUNDS FOR DISQUALIFICATION

20.1 All Proposers are expected to have read and understood Council Policy 0-35 titled Procurement and Contract Process Integrity and Conflict of Interest adopted on February 6, 2007. A complete copy of the Process Integrity Guidelines can be found at:

http://www.sanjoseca.gov/purchasing/pdf/Policy0_35.pdf.

20.2 Any Proposer who violates the Process Integrity Guidelines will be subject to disqualification. Generally, the grounds for disqualification include:

20.2.1 Contact regarding this procurement with any City official or employee or Evaluation team other than the Procurement Contact from the time of issuance of this solicitation until the end of the protest period.

20.2.2 Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms, or conditions of this Proposal.

20.2.3 Influencing any City staff member or evaluation team member throughout the solicitation process, including the development of specifications.

20.2.4 Evidence of submitting incorrect information in the response to a solicitation or misrepresent or fail to disclose material facts during the evaluation process.

20.3 In addition to violations of the Process Integrity Guidelines, the following conduct may also result in disqualification:

20.3.1 Offering gifts or souvenirs, even of minimal value, to City officers or employees.

20.3.2 Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City.

20.3.3 Evidence of Proposer’s inability to successfully complete the responsibilities and obligations of the Proposal.

20.3.4 Proposer’s default under any City agreement, resulting in termination of such Agreement.

21 ADDENDA AND INTERPRETATION

21.1 The City shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by the City or its representatives. Should discrepancies or omissions be found in this RFP or should there be a need to clarify the RFP, requests for clarification may be sent via e-mail or fax to the attention of the contact named in Section 8.

21.2 Proposer’s requests for clarification shall be submitted in accordance with Section 12. Any City response to a request for clarification will be made in the form of an addendum to this RFP. All addenda shall become part of this RFP.
21.3 Receipt of all addenda should be acknowledged using Attachment C, Proposal Certification, Paragraph 5.

22 PROPOSAL SUBMISSION

22.1 This RFP does not commit the City to pay any costs incurred in the submission of a Proposal or in making any necessary studies or designs for the preparation thereof, or the purchase or contract for the services.

22.2 After acceptance of the successful Proposal by the City, the successful Proposer(s) shall be obligated to enter into an agreement consistent with the Proposal submitted.

22.3 Should the successful Proposer fail to execute the agreement, the City shall have the right to seek legal remedies against the Proposer, including forfeiture of the Proposal Bond, if any, and an action for damages and shall have the right to award to the next responsive Proposer.

23 EXAMINATION OF PROPOSED MATERIAL

The submission of a Proposal shall be deemed a representation and certification by the Proposer that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that it has read and understood the RFP. No request for modification of the statement shall be considered after its submission on grounds that Proposer was not fully informed as to any fact or condition.

24 CODE ADHERENCE, PERMITS AND FEES

The successful Proposers shall agree to abide by all laws, rules and regulation of the United States, State of California, Santa Clara County, and the City of San Jose, securing all necessary licenses and permits in connection with the resulting agreement at no additional cost to the City. The Successful Proposer must have or obtain a current City of San Jose business license.

25 TERMS AND CONDITIONS OF AGREEMENT

25.1 Upon conclusion of the RFP process, City Staff will make a recommendation to the City Council regarding the selection based upon the evaluation of the Proposals. The City will enter into negotiations with one or more Proposer(s). Proposer(s) shall enter into a contract with the City in substantial conformity with the selected Proposal and the form of the City’s Standard Terms and Conditions. Attachment G, Exemplar Agreement, outlines the City’s standard terms and conditions that will comprise part of the agreement between the City and the successful Proposer. The City reserves the right to negotiate project deliverables and associated costs.

25.2 All agreements will require the Proposer to adhere to the terms of its Proposal and to act in accordance with all applicable laws and regulations.
25.3 An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City.

26 INSURANCE REQUIREMENTS

26.1 The selected Proposer(s), at Proposer’s sole cost and expense and for the full term of the Agreement including any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements outlined in Attachment F, Exhibit G.

26.2 All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. The selected Proposer agrees to provide the City with a copy of said policies, certificates and/or endorsements.

26.3 Certificate of Insurance, as required, shall be provided to City within 10 days of the notice of award. Failure to provide the required Certificate of Insurance may result in withdrawal of the award recommendation, and award to the next highest ranked Proposer.

27 WAGE REQUIREMENTS

For parking operations and management services provided at the Norman Y. Mineta San Jose International Airport, the City of San Jose’s Airport Living Wage and Labor Standards Ordinance (San Jose Municipal Code, Title 25, Chapter 25.11), as amended, applies. Contractors and any Subcontractors that provide goods and/or services at the Airport are obligated to pay its covered employees performing work at the Airport specified minimum compensation rates and adhere to the other requirements of the Ordinance.

The following documents regarding the Airport Living Wage Ordinance and labor Standards are provided for your reference:

ATTACHMENT G Summary of Primary Provisions of Norman Y. Mineta San Jose International Airport Living Wage, Worker Retention, Labor Peace and Employee Work Environment

Exhibit 1 Airport Living Wage Determination
Exhibit 2 San Jose Municipal Code, Title 25, Chapter 25.11 Airport Living Wage and Labor Standards
Exhibit 3 Employee Work Environment and Labor Peace Questionnaire (to be completed and submitted with Proposal)

28 ACDBE REQUIREMENT

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, apply to this concession. It is the policy of the City of San Jose to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/Proposals. The City plans to meet its ACDBE participation targets through race-neutral means, and the City has therefore not established a contract specific ACDE goal for the Airport Parking Operations
and Management RFP. The City’s Airport Concession Disadvantaged Enterprise requirements are set out in Attachment F, Exhibit H, to this RFP.

In order to facilitate the City’s efforts to meet the ACDBE participation targets through race-neutral means, Proposers are requested to submit the following information with their Proposals: (1) the names and addresses of ACDBE firms and suppliers that will participate in the concession; (2) a description of the work that each ACDBE will perform; and (3) the dollar amount of the participation of each ACDBE firm participating.

29 PUBLIC NATURE OF PROPOSAL MATERIAL

29.1 All correspondence with the City including responses to this RFP will become the exclusive property of the City and will become public records under the California Public Records Act (Cal. Government Code section 6250 et seq.) All documents that you send to the City will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement.

29.2 Therefore, any Proposal which contains language purporting to render all or significant portions of the Proposal “Confidential”, “Trade Secret” or “Proprietary”, or fails to provide the exemption information required as described below will be considered a public record in its entirety subject to the procedures in Section 29.5.

29.3 Do not mark your entire Proposal as “Confidential”.

29.4 The City will not disclose any part of any Proposal before it announces a recommendation for award, on the ground that there is a substantial public interest in not disclosing Proposals during the evaluation process. After the announcement of a recommended award, all Proposals received in response to this RFP will be subject to public disclosure. If you believe that there are portion(s) of your Proposal which are exempt from disclosure under the Public Records Act, you must mark it as such and state the specific provision in the Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if you submit trade secret information, you must plainly mark the information as “Trade Secret” and refer to the appropriate section of the Public Records Act which provides the exemption as well as the factual basis for claiming the exemption.

29.5 Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a Proposer submits is a trade secret. If a request is made for information marked “Confidential”, “Trade Secret” or “Proprietary”, the City will provide the Proposer who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

30 NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT

The successful Proposer agrees that there shall be no discrimination against, or segregation of, any person, on account of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, marital status, or family status, in connection with or related to the performance of the Agreement.
31 CITY BUSINESS TAX

The Proposer(s) shall be required to comply with the San Jose Municipal Code Chapter 4.76 with respect to payment of the City Business Tax prior to commencement of work. Contact Finance/Revenue Management at (408) 535-7055 to determine the applicable tax costs.

32 ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

32.1 The City has adopted an “Environmentally Preferable Procurement” (EPP) policy. The goal is to encourage the procurement of products and services that help to minimize the environmental impact resulting from the use and disposal of these products. These products include, but are not limited to, those that contain recycled content, conserve energy or water, minimize waste or reduce the amount of toxic material used and disposed. Computers and other electronics are a growing focus of environmentally preferable purchasing activities due to their high prominence in the waste stream, their numerous hazardous chemical constituents, and their significant energy use. Moreover, when these products are improperly disposed of they can release hazardous substances that pollute the environment.

32.2 In support of this policy, the selected Proposer will be required to work with the City to apply this policy where it is feasible to do so. In addition, Proposers should address any environmental considerations with their Proposal response and include their company’s environmental policy and practices, and complete Attachment I, titled “Environmentally Preferable Procurement Program” checklist and submit with your Proposal.

32.3 The entire EPP policy may be found in the City’s internet site at the following link:

Attachment A1-A4

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1 GENERAL INFORMATION

The City of San Jose is soliciting proposals from qualified parking management companies experienced in the operations of Parking Facilities in an airport environment. The City intends to enter into an Agreement with the Successful Proposer to provide parking management and operational services for all Parking Facilities at Norman Y. Mineta San Jose International Airport (Airport). The objective of the requirements set forth in this RFP is to ensure that the level of customer service provided to the Customers utilizing the Airport’s Parking Facilities is of the highest quality, and consistent with the image that the City and the Airport wants to project to its users and visitors.

The Airport is a self-supporting enterprise, owned and operated by the City of San Jose. Located just two miles north of downtown San Jose, the Airport is conveniently bordered by major freeways and surface streets.

The Airport is currently ranked #39 out of the Top 50 US Busiest Airports according to the latest statistics published by the Federal Aviation Administration (FAA) in December 2009. In the calendar year 2008/2009, the Airport served as the gateway to travel for nearly nine (9) million passengers, which translated to approximately 24,700 daily passengers traveling on any of the twelve (12) airlines offering services at the Airport.

Sample data for the past six years and the first six months of fiscal year 2011 are provided for a general review of exits and revenues.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Revenue</th>
<th>Exit Transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>$29,765,391.00</td>
<td>1,710,941</td>
</tr>
<tr>
<td>2006</td>
<td>$30,311,540.00</td>
<td>1,657,723</td>
</tr>
<tr>
<td>2007</td>
<td>$30,295,232.00</td>
<td>1,591,505</td>
</tr>
<tr>
<td>2008</td>
<td>$29,246,449.00</td>
<td>1,441,695</td>
</tr>
<tr>
<td>2009</td>
<td>$24,172,646.00</td>
<td>1,154,954</td>
</tr>
<tr>
<td>2010</td>
<td>$21,785,228.00</td>
<td>1,002,458</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fiscal 2011 - 2011 – Six Month Transaction Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Month</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>July</td>
</tr>
<tr>
<td>August</td>
</tr>
<tr>
<td>September</td>
</tr>
<tr>
<td>October</td>
</tr>
<tr>
<td>November</td>
</tr>
<tr>
<td>December</td>
</tr>
</tbody>
</table>
The figures provided are meant to be a general overview of revenue and exit data; detailed figures can be made available upon request.

## 2 DEFINITIONS

Unless otherwise expressly stated, the following terms shall have the meaning indicated for the purpose of this RFP.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIRPORT</td>
<td>Norman Y. Mineta San Jose International Airport. Owned and operated by the City of San Jose.</td>
</tr>
<tr>
<td>AIRPORT OPERATIONS</td>
<td>A Division of the Airport, responsible for supervising and administering the Airport’s parking program and the Operating Agreement resulting from this RFP.</td>
</tr>
<tr>
<td>BUSINESS DAY</td>
<td>Any day of business other than Federal and City holidays, Saturdays, and Sundays.</td>
</tr>
<tr>
<td>CHANGEABLE MESSAGE SIGNS (CMS)</td>
<td>City-owned equipment installed on and around the Airport to direct the traveling public to Parking Facilities as well as displaying capacity status and other information deemed necessary by the Airport.</td>
</tr>
<tr>
<td>CITY</td>
<td>City of San Jose, a municipal corporation in the County of Santa Clara, State of California, and any successor thereto. City shall also mean the person, division, department, bureau, or agency as may from time to time be expressly designated by the City Council to exercise functional authority and control over given areas of responsibility with respect to rights and obligations of City.</td>
</tr>
<tr>
<td>CONTRACTOR</td>
<td>Successful Proposer selected from this RFP process to manage and operate the Airport’s Parking Facilities.</td>
</tr>
<tr>
<td>CUSTOMER</td>
<td>Users of the Airport’s Parking Facilities, including the traveling public, Monthly Parkers, and Airport and Tenant employees.</td>
</tr>
<tr>
<td>DIRECTOR</td>
<td>The Director of Aviation or such person as the Director may designate.</td>
</tr>
<tr>
<td>GROSS DAILY COLLECTIONS</td>
<td>All revenues collected daily by the Contractor for the payment of all parking fees and charges.</td>
</tr>
<tr>
<td>MONTHLY PARKING</td>
<td>Where a Customer’s right to park in a Parking Facility is made on a monthly basis, including long-term parking and other contractual parking obligations.</td>
</tr>
<tr>
<td>OPERATING AGREEMENT</td>
<td>The contract resulting from this RFP, entered into between the City and Contractor to manage and operate the Airport’s Parking Facilities.</td>
</tr>
</tbody>
</table>
3 SCOPE OF SERVICES

3.1 SUMMARY OF SCOPE

During the term of this Operating Agreement, the Contractor shall provide the highest level of professional management services of all Parking Facilities at the Airport on a twenty four (24) hours a day, seven (7) days a week basis. The overall management services shall include, without limitation: (a) managing all revenue generating parking operations, including public parking, employee parking and potential new parking operations that may arise; (b) providing professional, courteous and attentive customer service in all phases of parking transactions; and (c) rendering other related services as may be requested by the Director, including items mentioned in Section 13.2. The scope of services is intended to describe the management services expected by the City that are generally applicable. However, the services required for particular Parking Facilities may vary due to the diversity of Parking Facilities, their locations, operating characteristics, and primary Customers.

3.2 PARKING FACILITIES MANAGEMENT

3.2.1 Contractor shall manage, operate, and maintain all Parking Facilities twenty-four (24) hours per day, seven (7) days per week, every day of the year, including all legal holidays, in compliance with all federal, state and local laws and regulations.

3.2.2 Contractor shall use its best efforts to provide parking management services in a manner so as to maximize revenues and minimize costs, while providing the highest level of professional and courteous customer service.
3.2.3 Contractor shall provide qualified staffing to: collect parking fees and charges; process and issue parking permits; provide customer service and direction; and prepare detailed financial transaction and operational reports. In addition and upon approval from the Director, Contractor may be required to provide intra-lot tram or shuttle service for public usage.

3.2.4 Contractor shall hire, supervise, and train all parking operations personnel in accordance with applicable laws and regulations, as well as Contractor’s own training curriculum related to parking operations and customer service.

3.2.5 Contractor shall perform periodic facility inspections to insure a clean, safe condition commensurate with the standards of maintenance, repair and operation to ensure adherence to established standards specified in Attachment A-4. Deficiencies must be reported to Airport Operations as soon as applicable.

3.2.6 Contractor shall be responsible for all Parking Facility closures for routine maintenance, scheduled cleaning, and minor repairs, including the use of reflective cones, signs, barricades, and other supplies required to implement such closures. Contractor shall maintain complete control of Parking Facilities when full and/or closed for maintenance and shall be responsible for routing parking customers to other open and accessible Parking Facilities.

3.2.7 Contractor shall monitor all functions of the Parking Access and Revenue Control System (PARCS), including, but not limited to, entry and exit equipment, parking pay stations, audit and supervisor workstations, and all license plate recognition (LPR), license plate inventory (LPI) and automated vehicle identification (AVI) equipment to ensure any equipment observed out of service or requiring maintenance is reported immediately to both the Airport and the PARCS provider.

3.2.8 Director is authorized to establish reasonable rules, policies and regulations concerning the operation and use of the Parking Facilities.

3.3 PARKING FACILITIES MONITORING

3.3.1 Contractor shall regularly tour all Parking Facilities during all hours of operation to help prevent, deter or minimize vandalism, damage to, or loss or theft of, vehicles and the contents thereof parked in the Parking Facilities, and vandalism or damage to the Parking Facilities.

3.3.2 Contractor shall promptly report any suspicious or illegal activity or the presence of unauthorized persons to the San Jose Police Department by calling 9-1-1, and the Airport Operations Center (AOC) by calling 277-5100.

3.3.3 Contractor shall immediately notify the Airport Operations via telephone and by written report of every reported or known incident involving accidental injury or criminal activity, and shall keep a record of such incidents.

3.3.4 Contractor shall protect the Customers and employees from any observed hazardous conditions by placing sufficient number of orange cones and/or barriers to clearly mark the area and report such conditions immediately to Airport Operations for repairs. The items noted shall also be included in the Daily Operational Report for record keeping.
3.3.5 Contractor shall diligently monitor entry to and occupancy counts in all Parking Facilities and promptly notify Airport Operations when capacity reaches threshold specified by the Director.

3.3.6 Contractor shall monitor the intercom system that is integrated in PARCS located in the Parking Facilities and shall respond to the facilities for calls for assistance received from Customers in five (5) minutes or less. Any known malfunctions in the system shall be reported to Airport Operations as soon as practical.

3.4 ADDITION AND DELETION OF PARKING FACILITIES

3.4.1 City may, during the term of the Operating Agreement resulting from this RFP, request the Contractor to add Parking Facilities to those listed in Exhibit A, and any additional parking facility shall be managed in the same manner described in this RFP. In the event that the City desires to add a new parking facility, it shall send a written notice of intent to the Contractor, and both parties shall immediately begin negotiating adjustments to the approved compensation based on the number of additional staff deemed necessary to manage the additional facility. Criteria for adjustment shall include, but not be limited to, the type and/or size of the parking facility, activity, required staffing and/or maintenance. In the event that the parties do not reach any agreement regarding the adjustments to the compensation or the Contractor elects not to manage the additional parking facility, the City shall have the right to enter into a separate agreement with another Contractor to manage the added parking facility.

3.4.2 City shall have the right, during the term of the Operating Agreement resulting from this RFP, to delete any Parking Facilities from the inventory. In the event that the City deletes a parking facility, a written notice of such deletion will be sent to the Contractor and adjustments to the approved compensation will be calculated based on the staff and service reductions.

3.5 ADDITION AND DELETION OF SERVICE LEVELS

3.5.1 City shall have the right, during the term of the Operating Agreement resulting from this RFP, to increase or reduce services levels which may result in an increase or decrease of staffing levels. In the event that the City adds or deletes services, a written notice of such changes will be sent to the Contractor and adjustments to the approved compensation will be calculated based on the service reduction or additions. Additions, deletions or changes to services will be documented in the form of a restatement of Exhibit B and, if applicable, Exhibit F, signed by the Director and an authorized representative of Contractor.

3.6 AIRPORT ROADWAY CHANGEABLE MESSAGE SIGNS

3.6.1 Contractor shall manage specified City-owned Changeable Message Signs (CMS) installed around the Airport. The CMS is utilized to direct traveling public to Parking Facilities as well as displaying capacity status and other information deemed necessary by Airport Operations.

3.6.2 Airport Operations shall have final approval on all CMS messages prior to message activation.

3.6.3 Contractor shall monitor the status of CMS and promptly report outages and malfunctions to Airport Operations.
3.7 EQUIPMENT AND FURNISHINGS

3.7.1 Contractor shall, at its own cost, provide such furnishings and equipment as required for the performance of its management and administration services in the operation of the Parking Facilities, including but not limited to maintenance and cleaning equipment, cleaning supplies, tools, office and accounting equipment, closed circuit television system, office furnishings and vehicles.

3.7.2 City will provide all other equipment necessary to operate the Parking Facilities including but not limited to all PARCS equipment. The Airport has a maintenance contract for all PARCS equipment with Affiliated Computer Services, Inc. (ACS), which will perform all regular maintenance and major maintenance repairs upon proper reporting and notification of the issue to ACS. Minor maintenance, including ticket replacement, rebooting and un-jamming of PARCS equipment, as well as initial minor trouble shooting, will be required of the Contractor.

4 OPERATING PROCEDURES

4.1 GENERAL REQUIREMENT

4.1.1 Contractor shall be responsible for developing written procedures for the management, operation and maintenance of the Parking Operations and Facilities. All such guidelines, procedures and directions shall be consistent with the terms and conditions of this RFP.

4.1.2 Within thirty (30) days after award of the Operating Agreement, a copy of the written procedures for management, operations and maintenance, cash handling and auditing procedures for each type of PARCS equipment and parking facility shall be submitted to the Director for review and approval. The approved Operating Procedures shall be included as an exhibit to the Operating Agreement. Thereafter, the Contractor shall make revisions on an as needed basis, but at least on an annual basis, and submit such revisions in writing to the Director for approval.

4.2 REMOVAL OF VEHICLES

Contractor shall not relocate or remove any vehicles in the Parking Facilities under any circumstances. All vehicle relocation and removal must be approved by the Director and coordinated with Airport Operations through its approved towing service Contractor.

4.3 VEHICLE LICENSE PLATE INVENTORY

4.3.1 Contractor shall conduct a precise physical count of vehicle license plate inventory in each of the public Parking Facilities a minimum of once per week. The inventory shall be done between 0001 – 0400 hrs when vehicular movement is at a minimum.

4.3.2 Used as a back-up to License Plate Recognition technology, Contractor will need to use License Plate Inventory (LPI) technology. The LPI data is to be collected manually and entered into hand-held data entry computer units and then downloaded into the PARCS database.

5 CONTRACTOR STAFFING

5.1 GENERAL REQUIREMENT
Contractor shall provide sufficient number of qualified staff to perform the parking management services set forth in this RFP. The Contractor shall be solely responsible for selecting, hiring, employing, paying, supervising, training and discharging its personnel pursuant to the terms and conditions presented in this section of the RFP.

5.1.1 Contractor shall select and hire only persons who are well-qualified to perform the job duties for which they are being hired. The individuals shall be neat, well-groomed, and courteous, and act in the utmost professional manner when interacting with Airport customers, tenants, visitors and the general public. Contractor’s employees who will or may interact with the aforementioned persons in the performance of their duties must be able to communicate fluently in the English language.

5.1.2 Contractor shall ensure that at least one (1) employee having decision-making authority with regard to the operation, management and maintenance of the Parking Facilities be available onsite at all times.

5.2 PROPOSED STAFFING PLAN

5.2.1 Contractor shall develop and propose a written staffing plan outlining the base number of employees, including supervisors, which Contractor will use to operate the Parking Facilities during various hours of the day. The proposed staffing plan shall be based upon generally anticipated normal operations at the Parking Facilities, as well as staffing needs for peak holiday travel seasons.

5.2.2 Contractor shall provide the level of staffing at each of the Parking Facilities set forth in a written monthly and an annual staffing plan, which may be amended from time to time subject to approval by the Director. The monthly plan shall be reviewed with the Airport by the 15th of each month prior to the month it covers to ensure all peak or slow periods and holidays are properly accounted for.

5.2.3 Contractor shall be capable of adding staff as needed within 24 hours of receiving written notification by the City. Contractor shall also be capable of implementing a new schedule within 10 days of written notice from the City.

5.2.4 The staffing plan shall include the classifications of employee positions and the duties of each position. Classifications may include, but are not limited to:

- **General Manager:** Responsible for the day-to-day management, supervision and operation of all Parking Facilities. During the hours that the General Manager is managing, supervising and operating the Parking Facilities of the Airport, he/she shall not simultaneously be responsible for managing, supervising or operating any other parking operations.
  
  - General Manager shall be a highly qualified and experienced manager of motor vehicle parking facilities, charged with the responsibility and authority by Contractor in respect to the method, manner, and conduct of the operation.
  
  - General Manager shall be knowledgeable with similar types of revenue control systems as used by the Airport, and shall have expertise in the operation, management and maintenance of parking facilities in a market similar to the market in which the Parking Facilities are located.
• A resume for the proposed General Manager shall be included in the RFP response. The General Manager proposed by the Contractor shall be subject to the approval of the Director.

• **Supervisory Staff**: Assist the General Manager in all aspects of daily operational activities, and shall have the ability to resolve issues that may result in interruptions to parking services. A supervisor shall have the capability to make certain operational decisions in the absence of the General Manager.

• **Administrative Staff**: Perform variety of administrative tasks in support of parking operations, including staff scheduling, auditing of transactions and cash deposits, vehicle inventory accounting, and preparing financial reports.

• **Customer Service Staff**: Perform variety of customer service tasks such as processing parking fees and charges, directing traffic during peak periods, operating in-lot shuttle service in specified Parking Facilities, and providing customer assistance in the Parking Facilities.

• **Maintenance/Janitor/Custodial Staff**: Performs duties of routine maintenance and minor repair of all Parking Facilities.

### 5.3 TRAINING

5.3.1 Contractor shall provide adequate personnel training in accordance with all applicable Federal, State and City Requirements and Specifications, as well as the Contractor’s own curriculum and standards pertinent to parking operations.

5.3.2 Contractor shall be solely responsible for all costs incurred as a result of the employees’ initial and recurrent training.

5.3.3 Contractor shall maintain records of training in its employees’ files. The training records shall be available for review by Airport staff upon the request of the Director.

### 5.4 UNIFORMS

5.4.1 Contractor shall establish and enforce dress code policies as approved by the Director. Uniforms are required to be clean, pressed and professional in appearance.

5.4.2 Contractor employees staffing the Parking Facilities shall wear a conspicuous I.D. badge and distinct uniform, pre-approved by the Director, identifying such persons as parking service employees of the Contractor. The Director shall not unreasonably withhold approval of any uniform and identification badge proposed by the Contractor.

5.4.3 Contractor shall be solely responsible for all employee uniform costs as well as associated maintenance costs, notwithstanding any other provision set forth in this RFP.

### 5.5 PROFESSIONAL BEHAVIOR

5.5.1 Contractor shall be responsible for the conduct, demeanor and appearance of its employees while on or about the Parking Facilities and while acting in the course and scope of employment.
5.5.2 Contractor employees shall be neat and clean while on or about the Parking Facilities or while acting in the course and scope of employment.

5.5.3 Contractor employees shall be properly trained in accordance to their job specifications and performance measures according to the Operating Procedures.

5.5.4 Contractor employees shall act at all times in a courteous and professional manner when dealing with Customers, traveling public, and all other Airport employees.

5.5.5 Contractor employees are to be attentive, alert and responsive to all Customer's issues, needs, comments or complaints. At no time shall a Contractor employee make a Customer feel threatened, insecure, or ignored on and around the Parking Facilities. Issues should be escalated to a Supervisor whenever a cashier needs support and guidance.

5.5.6 Contractor employees are prohibited from receiving and soliciting tips under any circumstances.

5.5.7 City reserves the right to request the Contractor have an employee reassigned or removed at any time for improper activities including, but no limited to, embezzlement, poor customer service, or violating any of the Airport Rules and Regulations.

6 COLLECTION OF FEES AND CHARGES

6.1 ESTABLISHMENT OF RATES AND CHARGES

The San Jose City Council is responsible for setting the parking rates and programs at the Airport. Contractor shall be responsible for charging and collecting from each Customer the appropriate parking fees based on the rates and programs established by the City. The Director will notify the Contractor when new rates or programs have been established. It is the Contractor’s responsibility to ensure that all rates and charges are correctly reflected in PARCS and updated signage is posted at all Parking Facilities. A current copy of the Rate resolution is included as Attachment A-3.

6.1.1 Current parking rates are at time of RFP issuance:

- **Terminal A Parking Garage** (Hourly Lot 2 as of June 2011)
  
  $1 per 20 minutes or any portion thereof  
  $30 per 24 hour duration maximum  
  $15 per 24 hour duration maximum for individuals displaying placards or license plates in accordance to the Americans with Disabilities Act (ADA)

- **Terminal B Short Term Parking Lot (Rental Car Center)** (Hourly Lot 3 as of June 2011)
  
  $1 per 20 minutes or any portion thereof  
  $30 per 24 hour duration maximum  
  $15 per 24 hour duration maximum for individuals displaying placards or license plates in accordance to the Americans with Disabilities Act (ADA)

- **Long Term Parking (West Side Parking Lot closing in June 2011)**
  
  $1 per 20 minutes or any portion thereof  
  $15 per 24 hour duration maximum
Parking Rates and Lot Names scheduled for implementation in June 2011:

- **Hourly Lot 2** (Terminal A Parking Garage)
- **Hourly Lot 3** (Rental Car Center Garage – 1st floor)
- **Hourly Lot 5** (opening June 2011)

  $2 per 30 minutes or any portion thereof up to $30 max for the first 24 hours
  $30 flat rate per 24 hour period thereafter or any portion thereof

- **Daily Lot 4** (Converting to Daily Lot 4 in June 2011)
- **Daily Lot 6** (opening June 2011)

  $22 flat rate per 24 hour period or any portion thereof

- **Economy Lot 1** (opening June 2011)

  $15 flat rate per 24 hour period or any portion thereof

6.1.2 Current employee parking rates at the time of RFP issuance:

- **Employee Parking**

  $45 per month – Terminal A Garage Employee lot
  $90 per month – Airline Crew
  $100 per month – public terminal facilities
  $50 lost hang tag / proximity card set
  $20 initial hang tag and proximity card fee

6.2 CONTRACTOR RESPONSIBILITY

6.2.1 Contractor shall be solely responsible and liable for collections and management of all parking fees and charges. All fees and charges collected by the Contractor as part of any parking program become the sole property of the City when collected.

6.2.2 Contractor shall assume all risks of loss of funds, including, but not limited to, loss by damage, destruction, disappearance, theft, fraud, counterfeit bills/coins, dishonesty, or loss of funds associated with use of any PARCS equipment including parking pay stations and automated exit equipment. Contractor’s assumption of risk continues until all fees and charges collected by the Contractor on behalf of the City are deposited in the City’s designated depository.

6.2.3 Contractor shall be responsible for losses of revenue to the Airport as a result of its employees charging Customers less than the amount due as determined by the difference between the amount of revenue recorded by PARCS and the actual amount collected and turned in by the employee at the end of each employee’s shift. Contractor shall prepare and submit to the City on a monthly basis a listing of such undercharge transactions showing the date, time, exit booth and transaction involved.

6.2.4 Contractor shall be responsible and liable to City for all losses resulting from Contractor’s failure to collect the parking fees as a result of its employee undercharges, and/or errors in collection of funds, including, without limitation, all losses resulting from employee dishonesty, forgery, alteration, theft, disappearance, destruction, robbery and/or burglary.
The entire amount of such uncollected parking fees shall be deducted from the compensation otherwise payable to Contractor. Any losses, undercharges and overcharges shall be reconciled and determined according to the difference between the amount of revenue recorded by PARCS and the amount of collections remitted by Contractor’s employee at the end of each employee work shift. All overcharges accrue to the benefit of City and shall not be offset against any undercharges.

6.2.5 In the event that a Customer exits by unauthorized means without paying, Contractor shall make reasonable efforts to gather vehicle information and immediately notify San Jose Police Department and Airport Operations. Contractor shall also prepare a report of such incident and forward it to Airport Operations.

6.2.6 Contractor shall accept cash, credit cards, and personal or traveler checks as payment.

6.2.7 Contractor shall be fully and strictly liable to Airport for any loss(es) of revenue to Airport as a result of Contractor’s acceptance of credit card(s) or check(s) in any manner which is inconsistent with any provision of applicable law or to the Operating Procedures approved by the Director. Airport may deduct the full amount of any such loss(es) of revenue upon notice to Contractor from Airport’s monthly payment of compensation otherwise due to Contractor pursuant to the Agreement.

6.2.8 Contractor shall furnish an Aged Vehicles Report on a weekly basis of all vehicle parked in any Parking Facilities for longer than fifteen (15) days to Airport Operations.

6.2.9 Contractor shall maintain written procedures and internal controls, including user access controls, necessary to ensure proper management and control of all funds, reports and documentation required in the operation of the system and facilities.

6.3 PAYMENT BY CREDIT CARD

6.3.1 Contractor is authorized to accept the use of MasterCard, American Express, Discover and Visa for the limited and sole purpose of payment of parking fees in lieu of cash. The City may, from time to time, add or delete credit cards acceptable for payment. Unless Contractor uses the City’s Credit Card processing service provider, the Contractor shall be reimbursed the usual, customary and reasonable standard rate service charge(s), if any, of the bank(s) processing such authorized credit card transactions from the parking fees received and reported by Contractor. Contractor shall provide written evidence acceptable to the Director, prior to the commencement date of the Agreement, which adequately verifies the amount of such charges.

6.3.2 Contractor shall only accept major credit cards for the amount which is due from the Customers for payment of parking fees at the Airport. Contractor shall ensure strict compliance with Payment Card Industry (PCI) Data Security Standards for each credit card transaction. Under no circumstances is Contractor permitted to return cash to any person in any transaction involving the tendering of a credit card.

6.3.3 City shall provide a centralized credit card system integrated with PARCS; however, the Contractor shall be required to supply, install, and maintain a redundant credit card verification system for all staffed booths that provide authorization of charges within five (5) seconds.

6.3.4 Contractor shall obtain the most advantageous credit card transaction processing rates and bank charges based upon a comparison of competitive market rates and verifiable
6.3.5 Contractor must maintain PCI compliance and Certification as the bankcard merchant for the Airport parking facilities. Contractor is responsible for all quarterly, annual or other required assessments, analysis or certification processes necessary to maintain PCI certification as the bankcard merchant. The City reserves the right to become the bankcard merchant for credit card transactions at the Airport parking facilities, following a 30-day notice to Contractor.

6.3.6 Contractor shall be responsible for the installation and subscription of firewall monitoring services of all data access points that are not on the Airport's Network Infrastructure.

6.3.7 In the event of Contractor's non-compliance with the PCI Data Security Standard's and/or in the event of a data breach Contractor must inform the City immediately and at Contractor's expense, take all curative measures necessary to remedy such noncompliance or data breach.

6.4 PAYMENT BY CHECK

6.4.1 Personal Checks
Contractor shall accept personal checks in accordance with the provisions of California Government Code Section 6157, as amended, that is, the maker shall provide satisfactory proof of California residence and the drawer bank shall be located in California. No personal check issued by an out of state resident, or drawn on an out of state bank shall be accepted. A personal check shall be accepted only if the name and street address of the maker is imprinted on the personal check. The maker's telephone number must be written on the check if it is not imprinted thereon. A valid California driver's license or identification card shall constitute satisfactory proof of residence in California. Contractor shall secure the motor vehicle license plate number and state of issuance or the vehicle identification number of the motor vehicle being operated by the maker, and enter such information on the personal check, if the addresses of the maker printed on the personal check and the driver's license or identification card are not identical. Personal checks shall be made payable to the “City of San Jose” only for the amount of the appropriate parking fee. Under no circumstances is Contractor permitted to return cash to any person in any transaction involving the tendering of a personal check.

6.4.2 Traveler's Checks
Contractor shall accept traveler's checks issued by a financial institution organized under the laws of any state or territory of the United States or a foreign financial institution which is authorized under federal law to maintain a federal agency or federal branch in the state of California or a licensee duly licensed by the Superintendent of Banks of the State of California. The term “traveler's check” shall bear the meaning set forth in California Finance Code Section 1852 (i) and (j). Contractor shall verify the similarity of the signature endorsements on the traveler's checks at all times. Traveler's checks shall be made payable to the “City of San Jose”.
6.4.3 Contractor shall provide, at its own expense, a check verification service such as TeleCheck, WelcomeCheck, or Certegy. The service provider is subject to the City’s approval.

6.5 GROSS DAILY COLLECTIONS

6.5.1 Parking fees charged and collected by the Contractor shall be reported and deposited by the Contractor daily.

6.5.2 Gross Daily Collections shall be transported by armored courier for deposit to the City’s designated depository within 24 hours of receipt or no later than the end of the next Business Day.

6.5.3 Contractor shall immediately document and report any malfunctioning of PARCS to the designated maintenance vendor and subsequently notify Airport Operations of the situation.

6.5.4 In the event that PARCS fails to function properly, Contractor shall manually process the collection and accounting of all parking tickets in accordance with acceptable accounting procedures.

6.6 INSUFFICIENT FUND TRANSACTIONS

6.6.1 In the event that a Customer is unable to pay the parking fees due, Contractor shall use every means available to collect all or portion of such fees before contacting Airport Operations for assistance.

6.6.2 Contractor shall be responsible for collecting all relevant information of Customers with insufficient funds, including driver’s license information, address, phone number, vehicle make and model, and license plate information. Customer information collected shall be promptly forwarded to Airport Operations following each Insufficient Funds Transaction.

7 PARKING PERMITS AND BILLING DOCUMENTS

7.1 GENERAL REQUIREMENT

Contractor shall be responsible and liable for issuing parking permits, parking access media and preparing documentation for billing of all associated parking programs.

7.2 PUBLIC PARKING

At the beginning of each month and prior to issuing a parking access card or granting the Customer access to the Parking Facilities, the Contractor shall charge and collect the appropriate parking fees from Public Parking Customers using an auto-charging process for approved credit card related parking programs.

7.3 EMPLOYEE PARKING

Contractor shall be responsible for processing all documents for employee parking permit issuance and cancellation requests and for entering parking permit data into the PARCS database. Airport Operations shall issue employee parking permit media to the Contractor for distribution. All employee permit documentation and returned employee parking permit media shall be turned in to Airport Operations on either a daily or weekly basis. Monthly employee parking permit activity,
billing summary and detail reports in soft and hard copy in a format approved by the Airport are to be submitted to the City by the 5th day of each month.

8 FINANCIAL REQUIREMENTS

8.1 SAFEKEEPING OF RECORDS AND REPORTS

8.1.1 Contractor, at its own expense, shall keep and maintain at its office at the Airport, separate and independent records in a separate set of books devoted exclusively to its operations at the Airport. Said books (e.g., ledgers, journals, accounts, supporting documents and other records) shall be maintained in accordance with generally accepted accounting principles and shall contain all entries reflecting all of the business operations of Contractor’s from the original transaction under this Agreement. All of such books shall be open for examination and audit by the City during ordinary business hours without prior notice. Contractor shall keep each year’s books for four (4) years after the end of each such year.

8.1.2 Upon the Director’s request, Contractor shall submit the format and methodology used to generate all reports described in this RFP. Reports must be available in electronic and hard copy format on an as-needed basis.

8.2 AUDIT AND REPORT REQUIREMENTS

8.2.1 Upon Director’s written request, Contractor shall within twenty-four (24) hours make available for inspection at the Airport any and all books, records and accounts pertaining to Contractor’s operations under this Agreement and shall fully cooperate with Airport in the conduct of such inspection. Contractor shall keep and maintain records which will enable City to ascertain, determine and audit, clearly and accurately, the parking fees received by Contractor and that the form and method of Contractor’s reporting of parking fees are adequate to provide a control and test check of all revenues derived by Contractor under this Agreement.

8.2.2 The Airport reserves the right to require the Contractor to submit any additional reports or data on activity levels as may be requested from time to time.

8.2.3 Required reports, in a format approved by the Airport, shall include the following reports. The Airport reserves the right to request additional or replacement reports and to change the frequency of report submission.

8.2.3.1 Daily Reports – due by 10:00 AM the following business day:

8.2.3.1.1 Daily PARCS reports with deposit slips
8.2.3.1.2 Daily Shift Reports and tickets
8.2.3.1.3 Fee Adjustment Logs

8.2.3.2 Weekly Reports – due by noon, the first business day of the week

8.2.3.2.1 Weekly Maintenance and Repair Log – showing repairs made, repairs needed and repairs requested and request resolutions for all PARCS equipment and facilities. The report shall show the date and time of repair requests and the time elapsed until repaired. All repairs not completed within approved time periods or over 48 hours should be highlighted.
8.2.3.3 Monthly Reports – due by noon on the 10th day of the month or by noon on the first business day following the 10th day of the month if the 10th day falls on a Saturday, Sunday or City holiday.

8.2.3.3.1 Monthly Invoice - including a summary of all reimbursable expenses, with supporting receipts and documentation.

8.2.3.3.2 Monthly Budget Report - showing actual expenditures compared to budget on a monthly and year-to-date basis and percentage of annual budget expended and remaining. Explanations should be provided for any variances above or below 10% of the approved budget.

8.2.3.3.3 Monthly Complaints Log - showing all complaints, dates of receipt and resolution and method of resolution. The report should show the total number of complaints per transactions for the month, year-to-date complaints and number of complaints compared to the number of complaints received in the previous year for the same time periods.

8.2.3.3.4 Monthly Refunds / Credit Card Credits Report – showing monthly numbers and dollar amounts of all refunds and credit card credits with a comparison to the previous year.

8.2.3.3.5 Monthly Comparisons Report - showing by facility and total Airport, the revenues, exits, cash and credit transactions and over and short amounts with weekly, monthly and year-to-date figures and comparisons to the previous year’s activity.

8.2.3.3.6 Utilization Report – showing by facility and total Airport, the amount and percentage of transactions by type of exit (manned, unmanned, validated, parking program, etc.), Pay Station usage by cash and credit, lane and entry/exit plaza usage.

8.2.3.3.7 Employee Parking Report – showing number of active permits and proximity cards, the number issued, lost and returned by tenant and billing group.

8.2.3.3.8 Accident and Insurance Report – showing all accidents and insurance issues for the month, including employee and worker’s compensation issues.

8.2.3.3.9 Contested Credit Card Report – showing the number and dollar amount of any claims with an annual running total.

8.2.3.3.10 Benchmarking Report – by facility and by type of product (hourly, daily, economy, employee, etc.) showing occupancy number and percentage, revenue per space, exits/transactions per space, revenue per enplaned passenger, exits/transactions per enplaned passenger, length of stay, average revenue per transaction. The report shall show monthly data and comparisons to the previous year, by number and by percentages.

8.2.3.4 Quarterly Reports – due by noon on the 10th day of the month of the first month of the quarter, or by noon on the first business day following the 10th day of the first month of the quarter.
8.2.3.4.1 PCI Compliance Report – providing data to ensure quarterly PCI compliance per the PCI standards in place at the time that the credit card transactions were completed.

8.3 UNDERPAYMENT

Should any examination, inspection, and audit of Contractor’s books and records by City disclose an underpayment by Contractor in excess of one-half of one percent (0.5%) of the parking fees due for any particular test, audit or reporting period, Contractor shall promptly pay the City the amount of such underpayment and shall reimburse the City for all costs incurred in the conduct of such examination, inspection, and audit.

8.4 OWNERSHIP OF MATERIAL

Contractor agrees that the City is the owner of all unused and used parking tickets and tapes and other records used in the operations of the parking and revenue-control devices. Such tickets, tapes, and records shall be stored by Contractor at the Airport and made available by Contractor for Director’s examination. Contractor shall maintain a written account of all tickets, tapes and other records described herein collected by Contractor, and shall present said written account to the Director upon request.

9 PARKING AND REVENUE CONTROL SYSTEM (PARCS)

9.1 The term PARCS shall include, but not be limited to, audio transmission equipment, automatic entrance and exit barriers, exit terminals, lane control units, fee displays and interfaces, message-switching electronics, ticket issuing machines, self-payment machines, vehicle detection systems, portable data entry terminals, and all enhancements, upgrades and all modifications to PARCS. It shall also include written and printed materials and documentation pertaining to the configuration, installation, maintenance, repair and operation of the PARCS, and computer hardware and software that may be located or housed in, and used in conjunction with, any part of the PARCS.

9.2 Airport has recently installed an Affiliated Computer Services, Inc. (ACS) Parking Access and Revenue Control System (PARCS) Version 7.1 to control entry and exit to all Public Parking Facilities. The system is equipped with an advanced License Plate Recognition (LPR) system to minimize revenue loss due to fraud. Exits from the public parking lots are through staffed booths and automated exit equipment.

9.3 Contractor shall become familiar with all components of the PARCS utilized by the Airport, City staff to assist in the training and familiarization of system with Contractor’s management, and demonstrate operational knowledge prior to the start of management services.

9.4 Contractor employees shall be properly trained by Contractor prior to using any component of PARCS and the management staff shall have the ability to troubleshoot system errors before initiating a service request to the system maintenance provider.

10 ROUTINE MAINTENANCE AND MINOR REPAIRS

10.1 Contractor shall be responsible for all custodial services, routine preventative maintenance and minor repairs that are not categorized as capital improvements or structural modifications in all Parking Facilities and the offices and storage space assigned to Contractor.
10.2 Contractor shall maintain all of the Parking Facilities in a clean, safe condition commensurate with the standards of maintenance, repair and operation specified in this RFP and with industry standards. A Minimum Preventative Maintenance Standard is described in Attachment A-4.

10.3 Contractor shall perform routine maintenance and minor repairs of the Parking Facilities and equipment, and shall replace supplies that are used for parking services on a daily or routine basis in order to keep the Parking Facilities operating in the optimal condition.

10.4 Contractor shall perform periodic inspections of each Parking Facility throughout the day, and shall collect and remove all garbage, offensive odors, debris and litter from all Parking Facilities identified during the inspections or that the Contractor otherwise becomes aware of or observes during the course of the day. The Contractor shall arrange for the sanitary and safe handling and disposal of all these materials into appropriate disposal containers.

11 ENVIRONMENTAL REQUIREMENTS

11.1 GENERAL REQUIREMENT

11.1.1 It is the City’s goal to manage its municipal operations in ways that minimize impacts to the environment to support achievement of its Green Vision goals and the Urban Environmental Accords. The City is creating Environmental Management Systems and applying International Organization for Standardization (ISO) 14000 series requirements for its various departments and operations. Contractor shall be aware of the environmental impacts of its operation and reduce them wherever possible.

11.1.2 Contractor or its subcontractor performing surface cleaning shall be trained and certified by Bay Area Stormwater Management Agencies Association (BASMAA). Additional information regarding BASMAA may be found at http://basmaa.org.

11.2 ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICIES (EP3)

11.2.1 The City has adopted the EP3 to encourage the procurement of products and services that minimize the environmental impact resulting from their use and disposal. These products include, but are not limited to, products that contain recycled content, conserve energy, water or other resources, minimize waste through reuse, composting or recycling, and reduce the amount of toxic material used and disposed. This applies to janitorial products and chemicals. Contractor shall be required to procure environmentally preferable products and services where criteria have been established by governmental or other widely recognized authorities (e.g. Energy Star, EPA Eco Purchasing Guidelines, Green Seal Certified). The following websites (list is not exhaustive or complete) contain information on environmentally preferable products:

- **Computers**
  http://www.epeat.net

- **Janitorial products**
  http://www.greenseal.org/findaproduct and
  http://www.ecologo.org/en/certifiedgreenproducts

- **Energy Star for energy efficient appliances**
  http://www.energystar.gov/

- **Environmentally Preferable Procurement**
11.2.2 Contractor shall work with the City to apply EP3 whenever feasible, and utilize energy efficient equipments to focus on cost saving efforts and practices. These may include but not be limited to the following:

- Purchase ENERGY STAR® products.
- Use laptop computers whenever possible as they use approximately 10% less energy than desktop computers.
- Use LCD rather than CRT monitors.
- Encourage employees to turn off equipment and office lighting when not in use.
- Use inkjet rather than laser printers as they use less energy.
- Encourage the use of low-impact transportation methods for employees and suppliers (e.g., walking, biking, and mass transit), which reduce energy consumption and emissions.
- Consider switching from written communications to emails.
- Consider equipment that can print on both sides of paper, and print double-sided copies using paper containing a minimum of 30% post-consumer recycled contents.
- Consider multi-purpose office equipment, e.g., all-in-one fax, printer, scanner, and copier. These generally require less energy and space than their stand- alone counterparts.

11.3 WASTE MANAGEMENT AND RECYCLING PROGRAMS

Contractor shall utilize waste, recycling and composting receptacles supplied by the City, and shall comply with all current and future City recycling programs and standards. The current recycling program entails the following:

- **Paper**
  Recycling bins for paper, including mixed or white paper.

- **Beverage Containers**
  Recycling bins for all beverage containers, such as glass, plastic, and aluminum cans.

Recycling bins will be provided by the City if not already supplied by the Contractor. Contractor shall agree to let City place containers and related signage in, on, and/or around the containers and shall instruct Contractor staff to use appropriate recycling containers.

11.4 ENVIRONMENTAL STEWARDSHIP

Contractor shall support the goals and objectives of the City’s Environmentally Preferable Procurement Policy as described in this RFP. All environmental management policies and activities related to the completion of work required by this RFP should be described in the Contractor’s proposal. Areas that may be addressed include, but are not limited to:
• Operation vehicles using alternative or hybrid fuel source.
• Use of recycled and/or recyclable products in daily operations.
• Internal waste reduction and reuse protocol(s).
• Use of non-toxic and environmentally friendly products.
• Any additional information that demonstrates the Contractor’s commitment to Environmental Stewardship.

12 CUSTOMER SERVICE

12.1 CUSTOMER SERVICE OBJECTIVES

12.1.1 Contractor shall strive to provide exceptional customer service at all times and shall collaborate closely with the Director to improve customer service. Contractor staff shall be fully trained in customer service skills to achieve the levels of service required in the RFP.

12.1.2 Contractor shall offer the following basic roadside assistance as needed to Customers in all Parking Facilities free of charge:

• Jump start dead batteries
• Transportation to and from distressed vehicles if requested
• Vehicle location assistance

12.1.3 Contractor shall provide customer service staffing in all Parking Facilities to meet the requirements of this RFP. Duties may include, processing parking fees and charges, directing traffic during peak periods, operating Courtesy Carts in specified Parking Facilities, and providing customer assistance in the Parking Facilities.

12.1.4 Contractor shall thoroughly investigate, process, and respond to all verbal and written customer complaints in a timely manner, but in no more than two (2) business days of receipt. A copy of responses shall be provided to the City as requested.

12.1.5 Contractor shall thoroughly investigate, process, and submit all parking fee refund requests to the Director for approval in a timely manner, but in no more than two (2) business days of receipt.

12.2 ADDITIONAL CUSTOMER SERVICE ITEMS OR PROGRAMS

City may, during the term of the Operating Agreement resulting from this RFP, request the Contractor to perform additional customer service items to enhance the overall customer experience at the Airport, e.g., provide and operate Courtesy carts or shuttles, or provide hands-on assistance with Parking Pay Stations or other PARCS equipment.

City may, during the term of the Operating Agreement resulting from this RFP, institute additional customer service programs and request the Contractor to manage, administer and/or operate
these programs. Programs may include in-lot shuttle services, frequent parker, VIP programs or other customer service related programs.

Shuttle services shall include Proposer operating and managing Shuttle Service within the Parking Facilities designated by the Airport, providing the highest level of professional, courteous, safe, and efficient service in a quiet and orderly manner, so as not to annoy, disturb, injure, harm or offend the general public, the tenants of the Airport, City and City personnel. The Shuttle Service shall include, without limitation: (a) operating Shuttles in accordance with the Shuttle Service Schedule; (b) providing licensed, well-trained, qualified, insured, professional and courteous Shuttle drivers to operate the Shuttles and assist the public; and (c) rendering such other related services as may be requested by City and are more fully set forth in this document. The Parking Facilities in which Shuttle Services are anticipated to be provided are those directly to the south of Terminal B and to the west of Terminal Drive (“Daily Lot 6”) and to the east of Terminal Drive (“Daily Lot 4”); however, the Airport may, in its discretion, determine that Shuttle Services be provided in only one of these Parking Facilities or otherwise amend the location of Shuttle Services.

In the event City desires to provide additional customer service items or services, it shall send a written notice of intent to the Contractor, and both parties shall immediately negotiate adjustments to the approved Operating Budget as necessary, for the proposed service items or programs to be implemented and provided. The RFP cost proposals includes one add-option item that may be included in the services to be provided by the Contractor. In-lot shuttle service will be implemented upon direction of the Director at the budgeted amounts as proposed by the contractor, unless otherwise negotiated at time of implementation. The Director has the sole option to implement or not this service in the method and manner as deemed appropriate.

12.3 CUSTOMER CLAIMS AND DISPUTES

Unless otherwise specified by the City, Contractor shall handle customer claims and disputes as follows:

12.3.1 All claims against Contractor for personal injury or property damage shall be submitted to its insurance carrier within twenty-four (24) hours of the incident. All claims made by Contractor for damages caused by a Customer’s vehicle shall follow the same procedure.

12.3.2 San Jose Police Department and Airport Operations shall be notified immediately of any personal injury or property damage in any of the Parking Facilities.

12.3.3 Disputes relating to parking fees shall be promptly referred to Airport Operations for resolution.

13 LIQUIDATED DAMAGES

13.1 Contractor shall be required by this RFP and the Operating Agreement, to meet certain performance standards; furthermore, the Contractor may propose other performance standards that are above and beyond the minimum standards described in this RFP. Failure by the Contractor to perform its obligations as described in this RFP and the Operating Agreement, and in particular to meet certain performance standards, may cause damage to the Airport and City in the form of negative public perception of the Airport generally and the Airport’s parking program and possible loss of revenue. To ensure that performance standards are met, the Contractor shall be responsible to pay the City liquidated damages if the performance standards described in Section
26 of the Exemplar, attached to this RFP as Exhibit F, are not met. The determination as to whether performance has been met adequately is at the reasonable discretion of the Director.

14 COMPENSATION

The Contractor’s compensation shall consist of the following items:

14.1 MANAGEMENT FEE

The Management Fee is proposed by the Contractor and paid to the Contractor on a monthly basis upon submission of an invoice to the Airport.

14.2 REIMBURSABLE EXPENSES

Each month the Airport shall reimburse the Contractor for expenses set forth below. These expenses shall only be reimbursable to the extent that the Contractor submits sufficient documentation to the Airport’s satisfaction that the expenses were directly incurred in providing the required parking services to the Parking Facilities. Moreover, the Contractor shall not be reimbursed for any otherwise reimbursable operating expense incurred during a particular month to the extent the amount exceeds the Operating Budget for the expense unless the Airport pre-approved, in writing, such expenditure. All expenses incurred by the Contractor in providing the required parking services not identified in this sub-section as being reimbursable are not reimbursable.

Reimbursable expenses are limited to the following:

14.2.1 Wages and Salaries: The City shall reimburse the Contractor for the actual salary and hourly wage costs paid as compensation by the Contractor to the cashiers, customer service representatives, traffic controllers, customer service lead personnel and supervisors, for performing the duties set forth in this RFP. City shall not reimburse Contractor for overtime wage costs, unless: (a) such costs were incurred in emergency actions, or (b) the Director provided advance approval in writing of such costs. All properly incurred wage costs shall be billed to the Airport based on actual hourly costs. The Airport shall only reimburse for salary and hourly wage costs incurred by employees for the time they are directly engaged in providing parking services to the Airport under the Operating Agreement. Reimbursements of employee compensation shall only be at the rates set forth in the approved Operating Budget and shall not include those employees specified in the Non-Reimbursable Operating Expenses or Management Fee sections. Approved timesheets showing reconciliation and variance explanations for actual worked hours vs. scheduled and/or budgeted hours shall be provided prior to approval of reimbursement.

14.2.2 Fringe Benefits: Subject to the limits specified, City shall reimburse Contractor for the actual cost of Fringe Benefits provided to the employees described in Section 14.2.1. “Fringe Benefits”, as used herein, means health benefits, sick leave, and vacation; and does not include any pension, welfare, annuity or other benefit.

The City shall reimburse only for that portion of Fringe Benefits resulting from the salaries and wages earned by employees in the performance of services under this Agreement.

The Airport shall reimburse employee Fringe Benefits only at the rates set forth in the approved Operating Budget.
The City reserves the right to cap the maximum amount of expenses reimbursable under this Fringe Benefits section.

14.2.3 Credit card transaction fees: at the rate as set forth in the approved Operating Budget.

14.2.4 Minor repair expenses as approved by the Airport.

14.2.5 Armored transport services at rates submitted to and approved by the Airport in the approved Operating Budget.

14.2.6 Operating supplies and materials such as cones, mops, cleaning supplies, paint, etc. as approved by the Airport and included in the approved Operating Budget.

14.2.7 Emergency Action expenses: The City shall reimburse the Contractor for reasonable costs incurred by the Contractor in the implementation of Emergency Actions, to the extent such actions are reasonably implemented to protect persons and property. Notwithstanding the foregoing, there shall be no reimbursement for costs incurred as a result of the Emergency Actions caused by the negligence or willful misconduct of the Contractor.

14.3 NON-REIMBURSABLE EXPENSES

All expenses other than those specified as Reimbursable Expenses in the above section are Non-reimbursable Expenses. Non-reimbursable Expenses include, but are not limited to:

14.3.1 Wages and fringe benefits for all employees not specified in Section 14.2.1.

14.3.2 Employee training or industry standard management certification.

14.3.3 The cost of revenue control or Airport equipment maintenance or repairs caused by the negligence or willful misconduct of the Contractor.

14.3.4 Bank charges related to declined credit card transactions/authorizations or returned personal checks.

14.3.5 Undercharges or shortages.

14.3.6 Purchase, maintenance and fueling of vehicles required for the management and operations of the parking facilities.

14.3.7 Employees not identified in the Approved Staffing Plan.

14.3.8 Cost of additional telephone, radios, cell phones, Internet or communications lines, devices or services not identified as supplied by the Airport. Long distance or chargeable call expenses.

14.3.9 Meals, travel costs, gratuities or gifts. This includes food, water and break room supplies.

14.3.10 Home, corporate office or off-site expenses.

14.3.11 Procedural auditing by non-Airport assigned staff.

14.3.12 Legal or union representation expenses.
14.3.13 Late fees, interest, penalties, fines or finance costs.

14.3.14 Promissory notes.

14.3.15 Computers and office equipment, except for PARCS equipment supplied by the Airport.

14.3.16 Uniforms and uniform cleaning expenses.

14.3.17 Replacement badge or permit fees.

14.3.18 Insurance, including all requirements in Attachment H of this RFP:

14.3.19 Retirement or Pension Plan Expenses.

14.3.20 Power washing and sweeping activities (including sub-contractors, vendors and/or additional staff) per schedules, as approved by the Airport.

15 OPERATING BUDGET

The Contractor shall provide a proposed Operating Budget for the first, second and third years of the Agreement. It shall provide by month and by year all expenses, including management fees, reimbursable and non-reimbursable expenses, necessary to meet the requirements of the RFP. All payroll expenses shall be broken down by level and type of position and will separately define wages and salaries and will detail all fringe benefits.

Schedules shall be provided to support wages and salaries provided in the proposed Operating Budget.

Operating Budgets must be approved by the Airport at least 30 days prior to the start of each agreement year and may be adjusted over the term of the Agreement at the request and direction of the Airport and/or upon institution of additional services required of the Contractor.

Monthly and Quarterly written reviews of the Operating Budget will be prepared by the Contractor with detailed descriptions provided for any variance of actual expenses from the Operating Budget of 5% or more. These reviews will be provided by the 10th day of the month following the end of the review period.

16 MARKETING

Contractor shall apply its parking management experience and industry expertise to provide marketing strategy recommendations to the Director for evaluation and implementation.
Attachment A-1

Operational Characteristics of Parking Facilities

All proposers are advised to survey and familiarize themselves with the operational characteristics and requirements of each parking facility listed in this exhibit and the RFP. The Parking Facilities shall be operated twenty-four (24) hours per day, seven (7) days per week, including holidays. The Director reserves the right to approve and change the hours of operation. The 24-hour operational day runs from 12:00 a.m. to 11:59 p.m. The parking fees collected and transactions details shall be recorded and balanced daily. For detailed schematic of each parking facility, please refer to Attachment A-2 of this RFP.

PUBLIC PARKING FACILITIES

- **Terminal A Garage (Hourly Lot 2 as of June 2011):**
  The parking garage is located across from Terminal A, and it consists of approximately 1,285 public parking spaces and 34 ADA spaces. The parking garage has two entry lanes on the west side of the facility and six exits, three in the lower plaza of the garage and three is the south plaza. All the exits are located on the first level. Three exit lanes have cashier booths which may be staffed however minimal staffing is planned. There are four parking pay stations adjacent to the parking facilities within baggage claim and the parking access lobbies.

- **Economy Lot 1 (opening June 2011):**
  This lot is located north of Terminal A and consists of approximately 1670 parking spaces. It opens in June 2011 with two public entry lanes and three exit lanes, one of which has a cashier booth.

- **Terminal B Short Term Parking (Rental Car Center) (Hourly Lot 3 as of June 2011)**
  The Terminal B short term lot is located across the street from Terminal B that consists of approximately 272 public spaces and 36 ADA spaces on the first floor of the rental car center garage and 350 surface spaces to the south of the garage. The public parking lot has one entry plaza with four entry lanes and one plaza with three exit lanes, one with a cashier booth. There are five pay stations adjacent to the lot. It is expected that prior to the end of 2011 the 350 spaces in the surface lot will become part of Daily Lot 4, leaving 272 public spaces and 36 ADA spaces in Hourly Lot 3.

- **Daily Lot 4 (opening June 2011)**
  This lot is located south of Hourly Lot 3 and consists of approximately 400 surface spaces. It has two entry and two automated exit lanes. It is expected that prior to the end of 2011 350 spaces will be moved from Hourly Lot 3 into Daily Lot 4.

- **Hourly lot 5 (opening June 2011)**
  This lot is a surface parking lot south of Terminal B on the west side of Terminal Drive. It consists of approximately 555 spaces and has two entry lanes and shares an exit plaza with Daily Lot 6 which consists of four exit lanes, one with a cashier booth. Two parking pay stations are located adjacent to this lot.

- **Daily Lot 6 (opening June 2011)**
  This lot is a surface parking lot south of Hourly Lot 5 on the west side of Terminal Drive. This lot consists of approximately 960 spaces and has two entry lanes and the exit plaza shared with Hourly Lot 5. A parking lot tram or shuttle may be used for transportation of daily passengers to the Terminal.

EMPLOYEE PARKING FACILITIES
• **Terminal A Employee Parking:**
The Employee Lot is the main employee lot for all Airport employees. It is located in the north tower of the Terminal A parking garage and consists of 784 parking spaces. There is one entrance lane and three automated exit lanes to the facility, controlled by proximity cards.

• **North Ramp Employee Parking (opening Summer 2011):**
This lot is north of the CNG station adjacent to Vehicle Gate 252 (FedEX airfield access gate) and consists of approximately 100 spaces. It has one uncontrolled entry and exit gate.

• **Air Freight Parking:**
The Air Freight facility is located South of Terminal B on Airport Blvd, and It has a small parking lot associated with the building the includes 32 spaces. There are no access controls in place for the area and parking is restricted by displaying of parking media.

• **Eastside Employee Parking:**
The Eastside Parking lot is located in the area of the hangars at the south end of the Airport near 1311 and 1277 Airport Boulevard. The area consists of 146 parking spaces. There are no access controls in place for the area and parking is restricted by displaying of parking media.

• **Terminal A Basement Employee Parking**
This lot is located in the basement area of the Terminal A garage accessed from the south end of the garage. It contains 110 spaces for employee parking. The one non-public, uncontrolled entry and exit is through the south end of the garage into the Ground Transportation Center.

• **Concourse Employee Parking**
This lot is located across from the Airport Administrative Offices in the Terminal B Concourse and contains 70 spaces. It has one uncontrolled entry and two uncontrolled exits.
**Only an excerpt of the Resolution no. 74875 related directly to Parking Rate and Charges at the Airport is attached here. The complete version of the Resolution is available upon request.**


The following fees, rates and charges are established for use of land, paved areas and structures at the Norman Y. Mineta San José International Airport (Airport), Airport parking rates, permit fees and charges for ground transportation providers, permit fees and charges for off-Airport rental car companies, fees and charges for technology services provided by the City of San José (City) to tenants at the Airport, and rates and fares for the operation of taxicabs at the Airport.

SCHEDULE OF FEES AND CHARGES

B. LANDSIDE OPERATIONS.

e. Fees, Rates and Charges for Airport Parking Rates.

(i) Hourly Parking Lot and Parking Garage: In the Hourly Parking Lot and Parking Garage, as designated by Director, the rate charged for each vehicle parking space, except a parking space designated for use by disabled persons and disabled veterans, shall be:

<table>
<thead>
<tr>
<th>Time</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>The first twenty minutes or fraction thereof</td>
<td>$1.00</td>
</tr>
<tr>
<td>Each additional successive twenty minutes or any fraction thereof</td>
<td>$1.00</td>
</tr>
</tbody>
</table>

Subject to the following adjustments: (a) a maximum charge of $10.00 to $40.00 for parking for a period not exceeding 24 consecutive hours, as such maximum charge may be established by the Director in accordance with the provisions of Section (xv), and (b) a charge of $0 to an amount not exceeding $3.00 for parking for each fifteen, twenty or thirty minute period, or any portion thereof, as such charge may be established by the Director in accordance with the provisions of Section (xv).

Except as otherwise provided in Section (xv), additional time parked in excess of any 24 consecutive-hour period shall be charged for by applying the same rates and charges to all time parked after the respective 24-hour period.

(ii) Long Term Parking Lots: In the Long Term Parking Lot, as designated by Director, for each vehicle parking space, the rate charged for parking shall be:

<table>
<thead>
<tr>
<th>Time</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>The first twenty minutes or fraction thereof</td>
<td>$1.00</td>
</tr>
<tr>
<td>Each additional successive twenty minutes or any fraction thereof</td>
<td>$1.00</td>
</tr>
</tbody>
</table>

Subject to the following adjustments: (a) a maximum charge of $5.00 to an amount not exceeding $20.00 for parking for a period not exceeding 24 consecutive hours and (b) a charge
of $0 to an amount not exceeding $3.00 for parking for each fifteen, twenty or thirty minute period, or any portion thereof, as such charge may be established by the Director in accordance with the provisions of Section (xv).

Except as otherwise provided in Section (xv), additional time parked in excess of any 24 consecutive-hour period shall be charged for by applying the same rates and charges to all time parked after that 24-hour period.

(iii) **Employee Parking:** In the portion of the Airport Parking Facilities designated by the Director for use by employees of Airport tenants, contractors, permittees, or licensees, the following rates, fees and charges shall apply:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial distribution of card/permit</td>
<td>$10.00 - $20.00</td>
</tr>
<tr>
<td>(non-refundable)</td>
<td></td>
</tr>
<tr>
<td>Failure to return card/permit at cancellation/card replacement</td>
<td>$25.00 - $75.00</td>
</tr>
<tr>
<td>(non-refundable)</td>
<td></td>
</tr>
<tr>
<td>Monthly Employee Parking Usage</td>
<td>$10.00 - $120.00</td>
</tr>
<tr>
<td>Charge All Employee Parking Facilities</td>
<td></td>
</tr>
</tbody>
</table>

(iv) **Intermediate Rate Parking:** The Director may designate a portion of the Airport Parking Facilities as an “Intermediate Rate Parking Lot”. The rate charged for each vehicle parking space in an Intermediate Rate Parking Lot, except a parking space designated for use by disabled persons and disabled veterans, shall be:

- The first twenty minutes or fraction thereof: $1.00
- Each additional successive twenty minutes or any fraction thereof: $1.00

Subject to the following adjustments: (a) a maximum charge of $6.00 to an amount not exceeding $20.00 for parking for a period not exceeding 24 consecutive hours and (b) a charge of $0 to an amount not exceeding $3.00 for parking for each fifteen, twenty or thirty minute period, or any portion thereof, as such charge may be established by the Director in accordance with the provisions of Section (xiii).

Except as otherwise provided in Section (xiii), additional time parked in excess of any 24 consecutive-hour period shall be charged for by applying the same rates and charges to all time parked after the respective 24-hour period.

(v) **Disabled Parking:** The rate charged for parking in a parking space for a disabled person or a disabled veteran displaying a distinguishing placard or license plate shall be the daily rate charged for the Long Term Parking Lot.

(vi) **Oversized Vehicle:** All oversized vehicles occupying more than one space in the various parking facilities will be assessed a fee equivalent to the number of spaces occupied by that vehicle.

(vii) **Urgency Long – Term Rate:** The Director is hereby authorized to approve the use of the Hourly Parking Lot and Parking Garage for Long-Term Parking patrons on an urgency basis when Long-Term lots are filled to capacity, and to charge Long-Term parking rates in connection with such use. The Director shall approve such use through issuance of a parking ticket and shall take adequate steps to insure appropriate use of such tickets.
(viii) **Lost Ticket:** If the time of parking cannot be ascertained by reason solely of the patron's loss of or inability to produce a parking ticket to determine when parking commenced, the parking charge shall be computed by multiplying the applicable maximum rate times the number of days the vehicle license number or other vehicle identification number has been recorded as being within the lot. If the vehicle license number or other vehicle identification number has not been recorded, the maximum per-day rate charge shall be the maximum 24-hour rate for the facility in which the vehicle was parked.

(ix) **Suspension of Charges:** Notwithstanding the foregoing provisions, the Director or his or her designated representative may permit vehicles to exit Airport Parking Facilities without charge as follows:

- If the Director or his or her designated representative determines that the normal waiting time under acceptable levels of service has been exceeded.

- If the Director or his or her designated representative determines that Airport traffic congestion will be relieved by the diversion of traffic to any of the parking lots; any vehicle which is diverted to any such parking lot may be permitted to exit without charge as to the first twenty minutes of parking.

- If the Director or his or her designated representative determines and substantiates that a hardship involving an Airport patron’s person or damage to property while on the Airport has occurred, or emergency circumstances exist.

(x) **Adjustment of Charges:** Notwithstanding the foregoing provisions, the Director or his or her designated representative may evaluate the circumstances surrounding a dispute over the calculation of a parking charge and adjust such fee if he or she believes that the circumstances warrant the adjustment.

(xi) **Fee Adjustment:** The Director may grant authorization to the parking contractor for processing parking fee adjustments of $3.00 or less without the prior approval of Director, only if the parking contractor determines that the normal waiting time under acceptable levels of service has been exceeded. The parking contractor must submit documentation in form and substance satisfactory to Director, within the time period determined by Director, substantiating each authorized adjustment. Prior to implementing any fee adjustment pursuant to this Section, the parking contractor must obtain the Director’s approval of a procedure to be followed for each adjustment, which must include adequate security precautions.

(xii) **Computation of Parking Time:** The Director may authorize a designated period ranging from 0 to 30 minutes from any Airport Parking Facility which shall not be included in the computation of parking time for the purposes of fixing the fees, rates and charges under this Resolution to accommodate customer delays in exiting the specific parking facility due to traffic congestion, equipment malfunction, or other operational issues as approved by Director.

(xiii) **Validation of Parking Tickets Pursuant to Validation Agreement:**

    a. **Validated Parking Tickets.** Parking tickets issued for the Hourly or Long Term Parking Lots or Parking Garage may be validated as provided in this Section (xiii). A validated parking ticket shall entitle the holder to the amount of time validated without charge, and the rates, charges and fees stated in subsections (i), (ii), and (iv), shall apply to parking for any time exceeding the amount of time validated.
b. **Validation Agreement.** The Director may permit any of the City’s tenants, licensees, concessionaires or permittees at the Airport to validate parking tickets issued to the patrons of such tenants, licensees, concessionaires or permittees at their premises at the Airport for use of parking spaces in the Airport Parking Facilities. Permission may be granted pursuant to a written validation agreement substantially in the same form as Exhibit A, attached hereto and entered into between the Director or his or her designated representative, on behalf of the City, and such tenant, licensee, concessionaire or permittee. The validation agreement shall be approved as to form by the City Attorney and filed with the City Clerk.

c. **Obligation of Validator.** Any tenant, licensee, concessionaire or permittee who has entered into a validation agreement with the City shall be referred to as a “validator.” A validator is permitted to issue a ticket validation for a specific period of time as set forth in the form of validation agreement in Exhibit A, which period of time shall not exceed twenty-four (24) hours. A parking ticket may be validated only once. The maximum amount of time for which a parking ticket may be validated shall be twenty-four (24) hours. Unless exempted by City, a validator shall be required to pay the City for each validated ticket and the amount of payment shall be as stated in the validation agreement. Validators shall validate parking tickets only for their customers at their place of business at the Airport.

(xiv) **Validation of Parking Tickets by the Director of Aviation:** Upon request of any person designated in this Section (xiii), the Director or his or her designated representative is authorized to validate a ticket issued to such person for parking in the Airport Parking Facilities at the Airport, provided that such validation is subject to and in accordance with the following conditions, restrictions and limitations:

a. Parking tickets shall be issued and validated only for the following designated persons:

- Any person who, with the permission of the Director or his or her designated representative, attends any regular or special meeting of a governmental or quasigovernmental body, association, agency, board, bureau, commission, committee, or subcommittee at the Airport;
- Any person who attends a meeting or function at the Airport called by the Director or his or her designated representative to conduct or discuss official City business;
- Contractors, while working at the Airport on behalf of the City, on Airport construction projects;
- Volunteer staff or non-profit organizations which provide information and assistance at the Airport to members of the traveling public pursuant to agreements with the City, while on the Airport in order to provide such assistance.

b. The Director or his or her designated representative shall, whenever validation is otherwise provided for in this Section:

- Validate each parking ticket which is issued for parking in any Airport Parking Facility at the Airport.
- Validate each parking ticket only once, and each validation shall be for a time no longer than is reasonably necessary to allow a designated person to be in attendance at the meetings or projects described in (xiv) (a).
c. A parking ticket which is validated by the Director or his or her designated representative shall entitle the ticket holder to park without charge for the time for which the Director or his or her designated representative has validated such ticket.

(xv) Adjustment of Parking Rates and Computation of Parking Time by Director:

a. The Director is authorized to increase or decrease the parking fees, rates and charges from time to time in accordance with the amounts specified in this Resolution if the Director determines that such an adjustment in the parking fees, rates and charges will facilitate the optimum use of spaces in the Airport Parking Facilities in a cost and revenue efficient manner considering both volume of traffic and convenience to the general public. The Director shall only increase or decrease the parking fees, rates and charges upon providing reasonable notice to the public by posting of appropriate signs at the entrance to the various public lots, or by notifying tenants and employees for employee lots.

b. The increases or decreases in parking fees, rates and charges which the Director is hereby authorized to make are as follows:

- Increase or decrease the time periods of assessing charges in the Airport Parking Facilities within a range of fifteen to thirty minutes.
- Increase or decrease the maximum daily charge for parking in the Hourly Parking Lots and Parking Garage as set forth in Section e (i) within a range of ten dollars ($10.00) to an amount not exceeding forty dollars ($40.00).
- Increase or decrease the maximum daily charge for parking in the Long Term Parking Lots as set forth in Section e. (ii) within a range of five dollars ($5.00) to an amount not exceeding twenty dollars ($20.00) for any period not exceeding twenty-four (24) consecutive hours.
- Increase or decrease the charge for each fifteen, twenty or thirty minute period or any fraction thereof of parking in the Hourly Parking Lots, the Long-Term Parking Lots, and the Parking Garage within a range of $0.00 to an amount not exceeding $3.00.
- Adjust the parking charge for the Valet Parking Rate up to seventy percent (70%) above the posted Short Term or Long Term Rate as set forth in Section e.(xix) of this Resolution.
- Adjust the parking charge for Parking Promotions up to seventy percent (70%) below the non-discounted rate as set forth in Section e. (xviii) of this Resolution.
- Increase or decrease the complimentary time for each lot from 0 to 30 minutes.
- Adjust the parking charge for Reserved Parking Rates up to seventy percent (70%) above the posted Short Term or Long Term Parking Rate as set forth in Section e. (xx) of this Resolution.
- Increase or decrease the amount issued for Customer Service Parking Rate Vouchers as set forth in Section e (xxi) by up to seventy percent (70%) of the posted Short Term or Long Term parking rate.
- Increase or decrease the charge for monthly employee parking as set forth in Section e. iii (Employee Lot) within a range of $10.00 to an amount not exceeding $120.00 per employee per month.

- Increase or decrease the parking charge for the Frequent Parker Program within the range described in Section e. (xxi) of this Resolution.

- Increase or decrease the charge for failure to return a permit as set forth in Section e. iii (Employee Lot) within a range of $25.00 to an amount not exceeding $75.00 per employee per month.

- Increase or decrease the initial distribution charge for a permit as set forth in Section e. iii (Employee Lot) within a range of $10.00 to an amount not exceeding $20.00 per employee per month.

(xvi) Decreases – Airport Parking Facilities: In increasing or decreasing the maximum daily rates for the Airport Parking Facilities pursuant to this Resolution, the Director may authorize the collection of parking charges for vehicles which entered the Airport Parking Facilities prior to the effective date of this Resolution, but exit after the effective date of this Resolution, at the lower maximum daily rate.

(xvii) Frequent Parker Program: “Frequent Parker Program” refers to a program which would allow the Director to establish a parking program available to the public, whereby the customer prepays for parking services over a specified period of time. The Director may establish a discounted parking rate for the Frequent Parker Program which shall not be less than seventy percent (70%) of the prevailing daily parking rate for the facility. The Director shall provide notice of the Frequent Parker Program and applicable rate in conformance with Section xv above.

(xviii) Parking Promotions: The Director is authorized to establish promotional parking programs that would allow a maximum discount of up to seventy percent (70%) of the revenue that would have been generated from the posted rate structure. These programs shall occur in accordance with Section xv of this Resolution and only if the Director determines that such programs will enhance customer service and increase revenue generation. These promotions may be based on coupon, advertised promotions, and dollars off promotions, specific promotional time periods, or other means.

(xix) Valet Parking: The Director is authorized to approve valet parking rates up to seventy percent (70%) above the posted Short-Term or Long-Term daily rate. This rate may be structured upon full analysis of the expenses, revenues and potential activity of the proposed service, as determined by the Director.

(xx) Reserved Parking: The Director is authorized to approve reserved parking rates up to seventy percent (70%) above the posted Short-Term or Long-Term daily rate. This rate may be structured upon full analysis of the expenses, revenues and potential activity of the proposed service, as determined by the Director.

(xx) Customer Service: The Director is authorized to increase or decrease the amount of time not included in the computation of parking time as set forth in Section e (xii) of this Resolution. This adjustment shall occur only if the Director determines that such adjustment will facilitate customer service and is necessary or prudent to enable the Airport to maintain its competitiveness with other Bay Area Airports. The Director or his or her designated representative is also authorized to issue reduced parking rate vouchers of up to seventy
percent (70%) of the posted Short-Term or Long – Term parking rate. These vouchers would be issued for qualifying customers filing valid written complaints of poor customer service and would be used on a future visit. The Director or his or her designated representative would investigate each complaint and determine if it qualifies for a voucher.
Attachment A-4

Minimum Preventative Maintenance Standards

General Maintenance Cleaning – Quality Standards

The goal of these Maintenance Standards is to Maintain Quality Cleaning Standards throughout the term of the Agreement

Achieving a clean facility and keeping it clean requires cooperation and supervision. Because the work is spread out over several surface and garage facilities, communication between Supervisors and staff is essential to know that cleanliness of the facility 24 hours a day, 365 days a year.

Quality inspection standards must be applied and maintained and Reliable, timely information about the cleanliness and condition of the facility must flow throughout the entire organizational structure.

The Facility Inspection Checklists should be completed by the Parking Operator at least once per day. On a monthly basis, the General Manager should accompany staff during the performance of an inspection. All Supervisors should review a copy of all completed inspection checklists.

Definitions:

1. Cleaning: Cleaning is defined as the complete, detailed housekeeping of an area, including but not limited to sweeping, scrubbing, washing, dust-mopping, and damp and wet mopping or vacuuming entire areas.

2. Policing: Policing is defined as the minimum type of housekeeping necessary to help maintain a uniformly acceptable level of cleanliness and appearance between cleanings. Policing includes, spot sweeping, spot scrubbing, dust-mopping, spot vacuuming, pick-up litter, spot mopping to remove spills and spoilage, emptying filled waste receptacles, re-supplying and disinfecting washrooms, spot wiping fixtures and gum removal. The materials, tools and equipment used policing are generally the same as are used in cleaning.

PARKING LOT AREAS – ENTRANCE AND EXIT LANES

General: Surface lot area cleaning and maintenance should be accomplished by completing such tasks as policing; spot cleaning, wet mopping, machine sweeping, hand sweeping corners and inlets, between, beneath, in front of and behind parked cars; and vacuuming. The goal of the cleaning program should be to clean the entire facility at least once every week.

Safety warning signs, “wet floor” signs, etc., should be set up in areas were cleaning and/or wet floors conditions may be a hazard. No dirt or debris should be left in corners, behind curbs beneath parked vehicles or inlets. Gum and other foreign matter should be removed during the policing and cleaning process. Observable dirt and debris beneath, in front of or behind parked vehicles, or other hard to reach areas should be picked up, swept by hand or vacuumed.

Specific Instructions

1. The entire parking facility should be policed and free of all litter and debris.
2. All parking areas should be swept and cleared of all remaining dirt, sand and debris with an automotive machine sweeper.
3. Degreasing and/or cleaning fluids may be dispensed on built-up grease and oil stains located in parking stalls and on entrance and exit lanes.
4. After facility cleaning activities, the parking areas should be sufficiently clean that they, at a minimum, are free of standing water, dirt, debris, and other foreign materials, and present an appearance of overall cleanliness.
5. Standing water should not be left on any floor. It should be removed with a Wet-Vac.
6. Signs, columns, railings, overhead pipes, curbs and fire hose containers should be checked for dirt or dust and need for paint touch-up.
7. The surface of the fire hose containers and other wall mounted boxes should be clean and free of stains, spots, streaks, fingerprints and other foreign matter. Dust, dirt and other foreign matter should be cleaned from all ledges and horizontal surfaces.
8. Signage should be inspected for integrity and operation. Any sign found missing or damaged should be reported to the General Manager who should notify the Airport, as necessary.
9. The surface of all signs should be clean and free of stains, streaks and other foreign substances. Surfaces should be wiped with a rag and cleaner to remove dirt, dust, etc.
10. Light fixtures and illuminated signs throughout the entire facility should be checked for operation. Any lamps or signs that are not lit or illuminated should be reported to the Supervisor.
11. Telephone surfaces should be cleaned until they are free of stains, spots, streaks, smudges, fingerprints and other foreign matter, and mouth and ear pieces should be sanitized.

Minimum Frequency

1. Policing of the parking areas, exit and entrance lanes should be accomplished at least three (3) times daily.
2. Each driving aisle in each lot, entrance and exit lanes, should be swept by machine and by hand daily.
3. Each lot, entrance and exit lanes should be cleaned daily.
4. Signs should be cleaned at least once each month on Saturday or Sunday Monday, or as time permits or other days, or as conditions require.
5. Cleaning of columns, islands, platforms, etc. should be performed once each month on Saturday or Sunday or as time permits on other days or as condition require.

CASHIER BOOTHS

General: Cleaning and maintenance of cashier booths should be accomplished by completing such task as policing, spot cleaning, emptying and cleaning trash receptacles. Wet mopping, sweeping and scrubbing, and/or vacuuming the goal of the cleaning program should be to clean each cashier booth once each day.

1. Extreme caution should be used when washing surface around or in the vicinity of electrical equipment. Water and other liquid solution will cause shocks, and could short circuit the parking/revenue control system.
2. It is the cashier’s responsibility to secure all tickets, data records, equipment and cash.

Specific Instructions:

1. Floors should be damp mopped with detergent solution and rinsed with a clear solution. Floor surfaces should be free of all dirt, stains, soil and debris.
2. All ashtrays and trash receptacles should be emptied and cleaned with a detergent solution to remove dirt and soil. Trash can liners should be replaced with a fresh liner.
3. Telephone surfaces should be cleaned until they are free of stains, spots, streaks, fingerprints and other foreign matter. Mouth and ear pieces should be sanitized.
4. Glass and other surfaces should be cleaned with a spray cleaner and wiped dry with a clean cloth. Glass surfaces should be free of tape, papers, smudges, fingerprints and dirt spots.
5. Dust, dirt and other foreign matter should be cleared from the fee computer, all edges and horizontal surfaces.
6. Inside and outside walls should be clean and free of watermarks, scratches, dirt, spots, streaks, smudges and other foreign matter.
7. All painted surfaces should be checked for paint touch-up needs.
8. All lights should be checked. Any lamps that are burned out or broken should be repaired / replaced immediately.

Minimum Frequency

1. The interior of the cashier booth should be policed at least twice each day.
2. The interior of the cashier booths should be cleaned at least once daily.
3. The exterior of the cashier booths should be cleaned at least once each week on Saturday or Sunday or as time permits on other days, or as conditions require.
4. Paint touch-up should be accomplished each month (as required) on Saturday or Sunday, or as time permits on other days or as conditions require.

OFFICES

General
1. Cleaning of the office should be accomplished by completing such task as policing, spot cleaning, emptying and cleaning trash receptacle, wet mopping, sweeping and vacuuming.
2. The goal of the cleaning program should be to clean the office each week.

Specific Instructions:
1. Safety warning signs should be set up in areas where cleaning and/or wet floor conditions may be a hazard.
2. Carpets should be swept or vacuumed to be free of dust, dirt and debris.
3. Carpets should be thoroughly cleaned to be free of dust, dirt stains and spots using spot remover or spot shampooing. Remove all residues from shampooing.
4. Uncarpeted floor surfaces should be dusted with a treated dust mop, or wet mopped or spray buffed to be free of all dirt, stains, soil and debris.
5. Dust and dirt should be removed from all horizontal and vertical surfaces using a lightly treated dust cloth.
6. Upholstered furniture should be washed or vacuumed. Spots or stains should be removed with spot remover.
7. All equipment and furniture moved during the cleaning process should be returned to its proper position after cleaning.
8. Dust, dirt and other foreign matter should be cleaned with office equipment, CRT and computer equipment cleaner.

NOTE: Extreme caution should be used when washing surfaces around or in the vicinity of electrical equipment. Water and other liquid solutions will cause shocks, and could short circuit the parking/revenue control system and computer equipment.

9. All painted surfaces should be checked for paint touch-up.
10. All ashtrays and trash receptacles should be emptied and cleaned with a detergent solution to remove dirt and soil. Trash can liners should be replaced with a fresh liner.
11. Telephone surfaces should be cleaned until they are free of stairs, spots, streaks, smudges, fingerprints and other foreign matter. Mouth and earpieces should be sanitized.
12. Glass and other surfaces should be cleaned with a spray cleaner and wiped dry with a clean cloth. Glass surfaces should be free of tape, papers, smudges, fingerprints and dirt spots.

Minimum Frequency:

1. The office should be cleaned at least once daily.
2. Uncarpeted floors should be cleaned and waxed once each week on a Saturday or Sunday or as time permits on others days, or as conditions require.
3. Carpets should be shampooed once monthly
4. The office should be policed daily.
5. Paint touch-up should be accomplished each month (as required) on Saturday or Sunday or as time permits on other days, or as conditions require.

PARKING EQUIPMENT

General:
1. Extreme Caution must be taken to avoid getting dirt, dust, water, cleaning fluids, or any other foreign matter inside any ticket spitters, gate housings, cashier terminals, entry or exit equipment, parking pay stations, etc.
2. Surfaces: Issuing Machines and barrier gates housings and gate arm surfaces should be cleaned until they are free of stains, spots, streaks, smudges, fingerprints, dirt, dust, and other foreign matter.

Specific Instructions:
1. Dust and dirt and other foreign matter should be cleaned from all ledges and horizontal surfaces with a cloth and detergent solution.
2. Islands and adjacent entrance/exit lanes should be free of dirt, stains gum and other foreign matter and present an appearance of overall cleanliness.
3. Island should be washed and scrubbed by hand with a wet mop or utility brush and a detergent solution. Lanes adjacent to the island should be degreased, scrubbed and washed thoroughly by machine or by hand.
3. All painted surfaces should be checked for paint touch-up.

Minimum Frequency:

1. Parking equipment should be cleaned each day.
2. Island should be cleaned and painted (touch-up) at least once monthly on a Saturday or Sunday or as time permits on other days or as conditions require.
3. Parking Equipment and islands should receive touch-up painting at least once monthly on Saturday or Sunday or as time permits on other days, or as conditions require.

SAMPLE MINIMUM MAINTENANCE SCHEDULE

<table>
<thead>
<tr>
<th>Area</th>
<th>Task</th>
<th>Daily</th>
<th>Weekly</th>
<th>Monthly</th>
<th>Semi-Annual</th>
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</thead>
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<td>Offices</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Police Office Areas</td>
<td></td>
<td>3X</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Empty Trash Cans</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vacuum / Mop floors</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wipe Counters</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wax Floors / Clean Carpet</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Clean Signs/ walls</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Lots</td>
<td>Police Entrances/Exits</td>
<td>3X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sweep entry/exit lanes, stairwells, walkways, elevators</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clean and empty garbage and recycling</td>
<td>2X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Services</td>
<td>Frequency</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>-----------</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>receptacles</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean Lot and entry/exit lanes</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean fire boxes/ wall mounted boxes</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dust all handrails</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remove Gum</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean Signs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean columns, islands, platforms, etc.</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pressure wash stairwells and pedestrian entryways</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean overhead pipes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean columns, islands, platforms, etc.</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cashier Booths</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police Interior of Booth</td>
<td>3X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean Interior of Booth</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean Exterior of Booth</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parking Equipment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean Parking Equipment</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police Equipment area</td>
<td>3X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clean equipment area, islands, shelters</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. In Table 1, Proposers are to provide their proposed annual management fee / non-reimbursable expenses (“Management Fee”) for each of the first three years. The Management Fee includes all costs to operate Airport parking garages and lots covered under this Agreement, including staffing expenses, overhead, vehicles, equipment, and other items identified in Section 14.3 of the Scope of Services as non-reimbursable expenses. The Management Fee should not include items identified as reimbursable expenses in Section 14.2 of the Scope of Services.

2. In Table 2, Proposers are to provide their proposed annual reimbursable expenses, including the items identified in Section 14.2 of the Scope of Services as reimbursable expenses, for each of the first three years. Proposers’ start-up and transition costs should be highlighted and detailed in the first year’s reimbursable fees.

3. In Table 3, Proposers are to provide their total proposed operating budgets for the first three years; this will be considered Proposer’s Base Cost Proposal. Operating budgets shall include the Management Fee and all of its component expenses (i.e., non-reimbursable expenses) and all reimbursable expenses per Section 15 of the RFP.

4. In Tables 4 and 5 Proposers should provide detail on Reimbursable staffing levels and wage/fringe benefits. The reimbursable expenses must directly relate to the staffing plan provided per Section 15.2.1 of the technical submittals.

5. In Table 6, Proposers should provide detail on Non-reimbursable staffing levels and contracted out services.

6. In Table 7, Proposers should provide detail on their cost for the supplemental In-lot Shuttle Service.

**1 Annual Management Fee Non-Reimbursable Expenses**

Provide your firm’s total annual management fee / non-reimbursable expenses for the initial three term of the agreement in the table 1 below:

<table>
<thead>
<tr>
<th>Row</th>
<th>Term</th>
<th>Annual Management Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>Year 1</strong> – November 1, 2011 through October 31, 2012</td>
<td>$</td>
</tr>
<tr>
<td>2</td>
<td><strong>Year 2</strong> – November 1, 2012 through October 31, 2013</td>
<td>$</td>
</tr>
<tr>
<td>3</td>
<td><strong>Year 3</strong> – November 1, 2013 through October 31, 2014</td>
<td>$</td>
</tr>
<tr>
<td>4</td>
<td><strong>Total Management Fee for Years 1 - 3</strong></td>
<td>$</td>
</tr>
</tbody>
</table>
# 2 Reimbursable Expenses

Provide your firm’s total annual reimbursable expenses for the initial three year term of the agreement in table 2 below. Attach details and specifics to substantiate these expenses, as necessary, including any miscellaneous and start-up expenses.

### Table 2

<table>
<thead>
<tr>
<th>Row Section #</th>
<th>Category</th>
<th>Year 1 Expenses</th>
<th>Year 2 Expenses</th>
<th>Year 3 Expenses</th>
<th>Total Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.15.2.1</td>
<td>Wages and Salaries</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>2.15.2.2</td>
<td>Fringe Benefits</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>3.15.2.3</td>
<td>Credit card Trans. Fees</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>4.15.2.6</td>
<td>Armored Transport Services</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>5.15.2.7</td>
<td>Operating supplies and Materials</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>6.</td>
<td>Miscellaneous</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>7.</td>
<td>Start-up Expenses</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Total</td>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

# 3 Total Base Cost Proposal

Provide your firm’s Total Three Year Operating Budget (Management Fee and Reimbursable Expenses) in table 3 below:

### Table 3

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1, Three Year Total (row 4)</td>
<td>$</td>
</tr>
<tr>
<td>Table 2, Three Year Total (row 8)</td>
<td>$</td>
</tr>
<tr>
<td><strong>Total Base Three Year Expenses</strong></td>
<td><strong>$</strong></td>
</tr>
</tbody>
</table>

In the event that the City exercises options to extend the agreement beyond the initial three year term, compensation rates for the Management Fee option years shall be subject to adjustment annually, with the adjustment to be calculated as follows:
The annual price increases (if any) not to exceed the increase in the annual average Consumer Price Index (not seasonally adjusted, All items, Base Period 1982-1984=100) for All Urban Consumers (CPI-U) for the San Francisco-Oakland-San Jose, CA Area, published by the U.S. Department of Labor, Bureau of Labor Statistics. The first contractual adjustment will be for the calendar year 2012 change in the CPI-U. The preceding provision of this Section notwithstanding, the adjustment of the compensation rates for any year shall not exceed 5% of the previous year’s compensation rates.

4 Reimbursable Positions

To assist in comparisons of Operating Budgets supplied by all proposing companies, please provide the number of full-time equivalent (FTE) positions, total hours per week (table 4) and the proposed hourly rates for each proposed Reimbursable Position by job classification (table 5). The total hourly rates will be the figures the Airport will use to calculate increases or decreases in staffing level should the Director decide to add or reduce Parking Management staffing. Please note that hourly pay rates must include provision to comply with the Minimum Compensation requirements of the City’s Airport Living Wage and Labor Standards Ordinance.

<table>
<thead>
<tr>
<th>Positions</th>
<th>Total FTE Positions</th>
<th>Hours per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cashier</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customer Service / Traffic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lead Person</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervisor</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Positions</th>
<th>Hourly Pay Rate</th>
<th>Fringe Benefits per Hour</th>
<th>Total Rate per Hour per Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cashier</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Customer Service / Traffic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Director</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lead Person</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supervisor</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Attachment B- Cost Proposal
5 Non-Reimbursable or Contractual Positions

To assist in comparison of Operating Budget for Non-Reimbursable Positions, please provide the total FTE proposed for each classification (column B) and the annual pay rate for each position (column C) or classification. For contracted out services, please check (X) in the Contracted Out box (column D) and indicate the annual Contract expense (column E) in table 6. Please note that hourly pay rates must include provision to comply with the Minimum Compensation requirements of the City’s Airport Living Wage and Labor Standards Ordinance.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Positions</strong></td>
<td><strong>Total FTE Positions</strong></td>
<td><strong>Annual Pay Rate per Position</strong></td>
<td><strong>Contracted out Service</strong></td>
<td><strong>Annual Amount of Contract</strong></td>
</tr>
<tr>
<td>General Manager</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Assistant General Manager</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Office Manager</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Administrative Staff</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Auditor</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Inventory Taker</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Custodian</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Pressure Washer</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Power Sweeper</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Other:</td>
<td>$</td>
<td></td>
<td></td>
<td>$</td>
</tr>
<tr>
<td><strong>Total Cost</strong></td>
<td><strong>$</strong></td>
<td><strong>$</strong></td>
<td><strong>$</strong></td>
<td><strong>$</strong></td>
</tr>
</tbody>
</table>

Table 6: Non-Reimbursable Positions or Contracted Out Services
6 Supplemental Services

In the event that In-Lot Parking Shuttle Services are required by the City during the term of this agreement, Proposer should provide expenses and hourly rates per the table 7 below. Rates shall remain firm for the initial three term of the agreement, and any option years will be subject to CPI increases as described above.

In-Lot Parking Shuttle Service in Daily Lot 6: Proposer shall provide charges for provision of an all-inclusive, turnkey in-lot shuttle service serving passengers within the Daily Lot 6 Parking Lot. Proposer shall show monthly Management Fee / Non-Reimbursable Expenses (including acquisition, maintenance, insurance, and related expenses) for three potential options: (a) service using one vehicle, (b) service using two vehicles, and (c) expenses required for each additional vehicle above 2 vehicles. City, at its cost, shall provide electricity, CNG, diesel or unleaded fuel(s) for in-lot shuttle service vehicles. The proposed Management Fee / Non-Reimbursable Expense shall be solely for the In-Lot Shuttle Services and will be separate from the fees proposed for all other sections of the RFP. City will provide a minimum of 30 days notice to increase service levels and a minimum of 90 days notice of reduction or elimination of In-Lot Shuttle Services.

Proposer will provide an hourly rate for staffing which will be used for service hours used in the provision of the In-Lot Shuttle Services.

Table 7: In-Lot Shuttle Services

<table>
<thead>
<tr>
<th>Monthly Expenses</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Management Fee / Non-Reimbursable Expenses – 1 Vehicle</td>
<td>$</td>
</tr>
<tr>
<td>2. Management Fee / Non-Reimbursable Expenses – 2 Vehicles</td>
<td>$</td>
</tr>
<tr>
<td>3. Management Fee / Non-Reimbursable Expenses – Each Additional Vehicle</td>
<td>$</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Hourly Rates</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Driver Hourly Pay Rate</td>
<td>$</td>
</tr>
<tr>
<td>Driver Hourly Fringe Benefits</td>
<td>$</td>
</tr>
<tr>
<td>4. Total Hourly Staffing Rate</td>
<td>$</td>
</tr>
</tbody>
</table>
ATTACHMENT C
Proposal Certification

NO PROPOSAL SHALL BE ACCEPTED WHICH HAS NOT BEEN SIGNED IN INK IN THE APPROPRIATE SPACE BELOW

<table>
<thead>
<tr>
<th>Proposing Firm Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Telephone:</td>
<td></td>
</tr>
<tr>
<td>Facsimile:</td>
<td></td>
</tr>
<tr>
<td>E-Mail:</td>
<td></td>
</tr>
<tr>
<td>Contact person name and title:</td>
<td></td>
</tr>
</tbody>
</table>

PROPOSER REPRESENTATIONS

1. Proposer did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms, or conditions of this proposal.

2. Proposer additionally certifies that neither Proposer nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, any California State agency, or any local governmental agency.

3. Proposer acknowledges that all requests for deviations, exceptions, and approved equals are enclosed herein and that only those deviations, exceptions, and approved equals included in the RFP document or permitted by formal addenda are accepted by the City.

4. Proposer did not receive unauthorized information from any City staff member or City Consultant during the Proposal period except as provided for in the Request for Proposal package, formal addenda issued by the City, or the pre-bid conference.

5. Proposer certifies that his company has been providing Parking Operations and Management Services on a continual basis for the past five years from the date of issue of this RFP.

6. Proposer hereby certifies that the information contained in the proposal and all accompanying documents is true and correct.

7. Please check the appropriate box below:

☐ If the proposal is submitted by an individual, it shall be signed by him or her, and if he or she is doing business under a fictitious name, the proposal shall so state.

Attachment C, Proposal Certification
If the proposal is made by a partnership, the full names and addresses of all members and the address of the partnership, the full names and addresses of all members and the addresses of the partnership, the full names and addresses of all members and the address of the partnership shall be stated and the proposal shall be signed for all members by one or more members thereof.

If the proposal is made by a corporation, it shall be signed in the corporate name by an authorized officer or officers.

If the proposal is made by a limited liability company, it shall be signed in the corporate name by an authorized officer or officers.

If the proposal is made by a joint venture, the full names and addresses of all members of the joint venture shall be stated and the bid shall be signed by each individual.

By signing below, the submission of a proposal shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that they have read and understand the RFP.

<table>
<thead>
<tr>
<th>Authorized Representative Name (sign name):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Representative Signature (print name):</td>
</tr>
<tr>
<td>Authorized Representative Title (print title):+</td>
</tr>
</tbody>
</table>

Complete additional signatures below as required per # 7 above

<table>
<thead>
<tr>
<th>Authorized Representative Name (sign name):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Representative Signature (print name):</td>
</tr>
<tr>
<td>Authorized Representative Title (print title):+</td>
</tr>
</tbody>
</table>

NO PROPOSAL SHALL BE ACCEPTED WHICH HAS NOT BEEN SIGNED IN INK IN THE APPROPRIATE SPACE
ATTACHMENT D
PROPOSER QUESTIONNAIRE

All information requested in the Questionnaire shall be furnished by the Proposer, and shall be submitted with the Proposal. Statements shall be complete and accurate and in the form requested. Omission, inaccuracy or misstatement may be cause for the rejection of a proposal.

1. Please confirm - by checking the box that follows this paragraph - that Proposer has at least five (5) years professional experience managing and providing Parking Operations and Management Services.

2. □ Proposer confirms that they meet the requirements stated above.

NOTE: If proposer is a joint venture, then the same joint venture (same companies/organizations that comprise the JV submitting this proposal, must have been in business providing the same professional services together for three years in order to meet this requirement.

If confirmation is not received by checking the appropriate box above, then your proposal shall be rejected.

3. If a corporation, answer the following:
   
   A. When incorporated?
   
   B. In what state?
   
   C. Authorized to do business in California?
      If so, what date?

4. If NOT a corporation, answer the following:

   A. Name of Organization:

   B. Date of Organization:

   C. General, Limited Partnership, or Joint Venture:

      (if applicable)

   D. Registered in California?
      If so, when?

5. Have you ever had a bond or surety denied, canceled, or forfeited?
6. Have you ever declared bankruptcy or been declared bankrupt?
   YES  NO
   If yes, state date, court jurisdiction, docket number, amount of liabilities and amount of assets.

7. Has your company ever had any agreements cancelled?
   YES  NO
   If yes, give details.

8. Has your company ever been sued by any organization for issues pertaining to fee payment, performance, or other related issues?
   YES  NO
   If yes, give details.

9. Are you currently engaged in merger or acquisition negotiations, or do you anticipate entering into merger or acquisition negotiations within the time period of this Request for Proposal?
   YES  NO
   If yes, give details. Attach copy of such agreement(s).

10. Are you now engaged in any litigation which does now or could in the future affect your ability to pay fees or perform under this Agreement?
    YES  NO
    If yes, give details.

The undersigned hereby declares under penalty of perjury that all statements, answers and representations made in this questionnaire are true and accurate, including all supplementary statements hereto attached. In the case of a corporate Proposer, the signature of one duly authorized representative is sufficient.

Signature  Signature

(Please Print or Type Name)  (Please Print or Type Name)

Title  Title

Attachment D, Proposer Questionnaire
## ATTACHMENT E
### PREVIOUS CUSTOMER REFERENCE WORKSHEET

<table>
<thead>
<tr>
<th>Name of Customer:</th>
<th>Customer Contact:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Customer Address:</th>
<th>Customer Phone Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Email address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Your Company Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

**What was the period of performance?**

<table>
<thead>
<tr>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Dollar value of Contract?** $

**Brief Description of Service Provided:**

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
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<td></td>
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<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
Attachment F
EXEMPLAR

AGREEMENT FOR AIRPORT PARKING FACILITIES
OPERATION AND MANAGEMENT SERVICES
BETWEEN THE CITY OF SAN JOSE
AND

This Agreement for Airport Parking Facilities Operation and Management Services ("Agreement"), dated, for convenience, as of ___________, is entered into by and between the City of San José ("City") and _______________, a ___________ authorized to do business in the State of California ("Contractor").

RECITALS

WHEREAS, the City owns the Norman Y. Mineta San José International Airport ("Airport"), which is located in the County of Santa Clara, State of California; and

WHEREAS, the City wishes to secure airport parking facilities management services at the Airport for the accommodation and convenience of the general public; and

WHEREAS, the City has solicited and received proposals (RFP _______) for such airport parking facilities operation and management services; and

WHEREAS, Contractor is an operator of parking facilities and renders parking facilities management services to various entities; and

WHEREAS, Contractor has submitted the proposal deemed by the City to be the most advantageous proposal submitted.

NOW, THEREFORE, in consideration of the covenants, terms and conditions of this Agreement, the parties agree:

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Contractor shall consist of this Agreement including:

   Exhibit A - Diagram of Airport
   Exhibit B - Diagram of Parking Facilities
   Exhibit C - Description of Office and Storage Space
   Exhibit D - Scope of Services
   Exhibit E - Operating Procedures
   Exhibit F - Operating Budget
   Exhibit G - Insurance Requirements
In the event of any discrepancies or inconsistencies between the terms in the main body of this Agreement and the terms in any of the above-referenced documents, the provisions in the main body of the Agreement will prevail, except to the extent expressly provided to the contrary. This Agreement, including the Exhibits set forth above, contain all of the agreements, representations and understandings of the parties hereto, and supersede and replace any previous understandings, commitments, or agreements, whether oral or written.

2. DEFINITIONS

The following terms as used in this Agreement shall have the meanings set forth below, unless the context clearly indicates otherwise:

2.1 Agreement
Means this Agreement for Airport Parking Facilities Management Services.

2.2 Airport
Means the Norman Y. Mineta San José International Airport, located in the City of San José, County of Santa Clara, State of California, as illustrated in Exhibit A, together with any appurtenant properties or facilities acquired for purposes associated herewith.

2.3 Anniversary Year
Means a period of twelve (12) consecutive calendar months, whether or not all twelve (12) months fall within the same calendar year. The first day of the term of this Agreement shall mark the commencement of the first day of the first Anniversary Year.

2.4 Business Day
Means any calendar day except a Saturday, Sunday, and any day observed as a legal holiday by the City of San José.

2.5 City
Means the City of San José, a municipal corporation of the State of California.

2.6 Contractor
Means ____________________, a ___________________ authorized to do business in the State of California.

2.7 Day
Means any calendar day, unless a Business Day is specified. The time in which an act is to be performed shall be computed by excluding the first day and including the last.

2.8 Director
Means the person designated the Director of Aviation by City, or such other person, division, department, bureau, or agency as may exercise from time to time functions equivalent or similar to those now exercised by the Director. The term includes any person expressly designated by the Director to exercise functions with respect to rights and obligations of the Director under this Agreement.

2.9 **Environmental Laws**

Means and includes all federal, state, and local laws, statutes, ordinances, regulations, resolutions, decrees, and/or rules now or hereinafter in effect, as may be amended from time to time, and all implementing regulations, directives, orders, guidelines, and federal or state court decisions, interpreting, relating to, regulating or imposing liability (including, but not limited to, response, removal, remediation and damage costs) or standards of conduct or performance relating to industrial hygiene, occupational, health, and/or safety conditions, environmental conditions, or exposure to, contamination by, or clean-up of, any and all Hazardous Materials, including without limitation, all federal or state superlative or environmental clean-up statutes.

2.10 **Hazardous Materials**

Means any and all (a) substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed, regulated or addressed under any Environmental Laws, and (b) any materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by-products, or waste may give rise to liability under any Environmental Law or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict or absolute liability or under any reported decisions of any state or federal court; and (c) any substance, product, by-product, waste or any other material which may be hazardous or harmful to the air, water, soil, environment or affect industrial hygiene, occupational, health, safety and/or general welfare conditions, including without limitation, petroleum and/or asbestos materials, products, by-products, or waste.

2.11 **Improvements**

Means any addition, alteration, betterment, construction, or improvement to any and all buildings, curbing, drainage, fencing, fixtures, landscaping, lighting, paving, piping, and walls now or hereafter located in, on, or about the Airport, or any part thereof.

2.12 **Laws**

Means all present and future applicable judicial decisions, statutes, laws, ordinances, regulations, building codes, Airport rules and regulations adopted from time to time, regulations, orders and requirements and policies of all governmental authorities including without limitation city, state, municipal, county, federal agencies or the federal government, and their departments, boards, bureaus, commissions and officials and such other authority as may have jurisdiction including, without limitation, any regulation or order of a quasi-official entity or body.

2.13 **License**

Means the license between City and Contractor that is granted to Contractor pursuant to **Section 7** of this Agreement.

2.14 **Operating Budget**

Means the Operating Budget attached as **Exhibit F**, as amended from time to time as provided in **Section 4.7** of this Agreement.
2.15 Operating Procedures
Means the Operating Procedures as developed by the Contractor during the RFP process, approved by the City and attached as Exhibit E, as amended from time to time as provided in Section 4.6 of this Agreement.

2.16 Parking Facilities
Means the parking facilities located at the Airport, as such parking facilities are illustrated on Exhibit B, which may be amended, replaced, altered or reconfigured from time to time by City at its discretion, subject to the provisions of Section 4.4 of this Agreement.

2.17 Parking Fees
Means the sum total of all parking lot fees, rates, and charges which are due and payable to City by users, for the privilege of parking motor vehicles in the Parking Facilities, as established by the Parking Rates Resolution.

2.18 Parking Programs
Means all programs pursuant to which entry to Parking Facilities is permitted by card or other electronic media (or by hang tag or similar form of permission) and Parking Fees are paid on a periodic basis rather than in connection with each individual entry, including without limitation parking for employees of City and of Airport tenants.

2.19 Parking Rates Resolution
Means City Council Resolution No. 74875, as amended or superseded.

2.20 Person
Means an individual, a corporation, a partnership, a joint venture, and any other form of business association.

2.21 Police
Means the San José Police Department, Airport Division, or other police or security forces operating at the Airport.

2.22 Premises
Means the office and storage space assigned to Contractor for its use as described as the Assigned Space in the License in Section 7 of this Agreement and in Exhibit C attached hereto.

2.23 Parking Access and Revenue Control System (PARCS)
Means the City-owned parking access and revenue control equipment, including, without limitation, audio transmission equipment, automatic entrance and exit barriers, cashier terminals, closed circuit television cameras and monitors, lane control units, fee displays and interfaces, firmware, message-switching electronics, processors, ticket issuing machines, vehicle detection systems, portable data entry terminals, license plate inventory equipment (LPI), automated license plate recognition equipment and system (LPR), automated vehicle identification system (AVI), all enhancements, upgrades, and all modifications to such PARCS equipment, written and printed materials and documentation pertaining to the configuration, installation, maintenance, repair and operation of the PARCS equipment, and computer hardware and software which may be located or housed in any constituent part of the PARCS equipment. The PARCS functions on a twenty-four (24) hour operational day from 12:00 a.m. to 11:59 p.m.
2.24 PARCS Provider
Means the third party provider (currently ACS, a Xerox Company) of the maintenance and repair services for the Parking Access and Revenue Control System (PARCS).

3. TERM OF AGREEMENT

3.1 General
The term of this Agreement is for three (3) years, commencing at 12:00 A.M. on November 1, 2011 (“Commencement Date”), subject to the earlier termination of this Agreement, unless the Agreement is extended in accordance with the provisions of Section 3.2.

3.2 Option to Extend Term
City has the right to extend the term for successive periods of one (1) year each for no more than five (5) one-year terms, commencing at 12:00 A.M. on November 1, 2014, subject to the earlier termination of this Agreement. City shall provide Contractor with no less than sixty (60) days’ prior written notice of its intention to exercise its option to secure the services under this Agreement from Contractor during any extension period.

4. SCOPE OF SERVICES
Contractor shall provide Airport Parking Facilities Management Services to the Airport in accordance with the provisions set forth in the attached Exhibit D, entitled “Scope of Services”, and Exhibit E, entitled “Operating Procedures”.

5. RESTRICTIONS ON OPERATOR AND LIMITATIONS ON USES

5.1 In general
Contractor agrees to use the Premises, the Parking Facilities and the Airport only for the purposes of providing the Services under this Agreement.

5.1.1 Prohibited uses
Contractor shall not do or permit anything to be done in, on, or about the Premises, the Parking Facilities or the Airport, nor bring or keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with any Laws now in force or which may hereafter be enacted or promulgated, or which is prohibited by a standard form of fire insurance policy or will in any way increase or affect the then existing rate of any fire or other insurance required to be carried upon the Airport, the Premises or the Parking Facilities and any of their contents, or which will cause a cancellation of any insurance policy covering the Premises, the Airport or the Parking Facilities, and any part thereof or any of their contents.

5.1.2 Legal waste
Contractor shall not commit, cause, maintain or permit, or allow to be committed, caused, maintained, or permitted, any legal waste upon the Premises, the Parking Facilities or the Airport, nor any public or private nuisance, nor any other act or thing which may disturb the quiet enjoyment of any tenant, licensee, invitee, or person using or occupying any portion of the Airport.

5.1.3 Unauthorized business
Neither Contractor nor its agents, employees or officers shall engage in the business of selling any emergency supplies, products or services, such as jumper service or tire repair, of any kind, at retail or wholesale, in, on, or about the Parking Facilities, the Premises or the Airport.

5.1.4 No vending machines

Neither Contractor nor its agents, employees, or officers shall install, maintain, operate, or permit the installation, maintenance, or operation in, on, or about the Parking Facilities of any vending machine or device designed to dispense or sell foods, beverages, tobacco products, or other merchandise of any kind to the general public. With Director’s prior written consent, Contractor may install food and beverage vending machines for use by Contractor’s employees.

5.1.5 No unauthorized signage

Contractor shall not install, erect, affix, paint, or place or permit the installation, erection, affixation, painting, or placement of any sign or lettering in, on, or about the Airport, the Premises or the Parking Facilities or any portion thereof, except as otherwise provided herein.

5.1.6 No unauthorized installations

Any installation authorized herein shall conform to the general arrangement, design, plans, or specifications approved in advance, in writing, by the Director.

6. CONTINUOUS OPERATIONS

As a material inducement to City to enter into this Agreement, Contractor covenants to continuously provide Services during the term of this Agreement, and the failure of Contractor to do so shall constitute a breach by Contractor.

7. LICENSE TO USE OFFICE SPACE

City hereby grants to Contractor a non-exclusive license to engage in the activities anticipated under this Agreement, subject to the following terms and conditions:

7.1 Term

This License shall be effective concurrently with the effectiveness of the Agreement.

7.2 Authorized Activities

Contractor may conduct the following authorized activities on the Airport, and no other activity, under the authority of this License:

7.2.1 Obligations under Agreement

This License is granted only for the purpose of facilitating Contractor’s performance of its obligations under the Agreement. Specifically, Contractor is granted the right to use the “Assigned Space”, which is described in Exhibit C hereto, as Office and Storage Space in conjunction with its performance of its obligations under each Agreement.

7.2.2 Change in Location

The Director may, at any time, change the location of the Assigned Space and request that Contractor relocate if the Director determines that relocation is necessary for reasons of public safety, to protect
property or for the added convenience of the City. Contractor shall bear the cost of relocation unless otherwise determined by the Director.

7.3 **Restrictions and Conditions on Activities**

The following conditions and restrictions shall apply to the activities authorized by this License:

7.3.1 **No Deed or Easement granted**

This License shall not constitute a deed or lease or grant of an easement by City.

7.3.2 **No Advertising**

Contractor shall not construct, erect or place any signs or other advertising display of any kind, except such as may be expressly permitted in advance in writing by the Director.

7.3.3 **No interference with Airport Activities**

Contractor’s activities in, on, or about the Airport shall not interfere with the administration of the Airport by City or activities thereon by others.

7.3.4 **Improvements**

Contractor shall not make any Improvements to the Airport, the Premises or the Parking Facilities or any portion thereof without the prior written consent of the Director. Any such Improvements shall be performed to the satisfaction of the Director.

7.3.4.1 **Governmental Reviews, Approvals and Permits**

Prior to the commencement of any Improvement, Contractor at its sole cost and expense shall obtain all necessary governmental reviews and approvals (including approvals of the Director or any other City official), licenses and permits. The costs and expenses which are payable by Contractor to secure these reviews and approvals may include City engineering and inspections fees (“E&I Fees”). Contractor shall comply with all conditions, restrictions or contingencies imposed upon, or attached to, the governmental reviews, approvals, licenses and permits described herein.

7.3.4.2 **Approval of Plans and Specifications**

Contractor shall submit full and complete plans and specifications for all work, facilities and Improvements, and the time required to complete the same, and receive written approval from the Director before work or construction is commenced. First class standards of design and construction will be required in connection with all such work, facilities and Improvements. All construction must conform with the plans and specifications as approved by the Director and the established architectural design scheme for the Airport, and is subject to City’s Department of Public Works “Planning Guide”. All Improvements shall conform in all respects to applicable statutes, ordinances, building codes and rules and regulations. The approval given by the Director shall not constitute a representation or warranty as to such conformity; responsibility therefor shall at all times remain with Contractor.

7.3.4.3 **Title to Improvements, Alterations and Repairs**

All improvements, alterations or construction of Improvements made to the Premises by Contractor (other than furniture, trade fixtures and equipment which are and remain movable and unattached to the Premises) and additions and alterations thereto made upon the Premises shall remain the property of Contractor until the termination of this License, at which time the Improvements may, at the Director’s option, become the property of City. Contractor shall execute any documents which the
Director feels is necessary to further evidence the transfer of title to Improvements from Contractor to City. Any failure by Contractor to execute any such transfer documents, however, shall not limit or preclude the transfer of title from Contractor to City provided in this Section.

7.3.4.4 Payment Bond – Construction

Prior to the commencement of any construction, alteration or repair hereunder which exceeds Five Thousand Dollars ($5,000) in cost, Contractor shall furnish to City and file with the City Clerk, at no cost to City, a payment bond. In addition to the specific requirements set forth below, the bond shall be issued by a surety, be in the sum of not less than one hundred percent (100%) of the total cost of the contract or contracts for the construction, alteration, demolition or repair of the Premises and/or Improvements, be satisfactory to and approved by City’s Risk Manager and the Director, and be approved as to form by the City Attorney. Immediately upon completion of any Improvement, Contractor shall record in the Official Records of the Santa Clara County Recorder a notice of completion complying with the requirement of California Civil Code Section 3093.

The payment bond shall guarantee the prompt payment to all persons named in California Civil Code Section 3181, and of amounts due under the Unemployment Insurance Code, amounts required to be deducted, withheld or paid over to the Employment Development Department from the wage of employees of the contractor and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, and reasonable attorneys’ fees. The payment bond shall protect City from any liens, liability, losses or damages arising therefrom, and shall name Contractor’s contractor or contractors as principals, and City as obligee.

7.3.4.5 Prevailing Wage – Construction

For construction work in excess of One Thousand Dollars ($1,000), Contractor shall require each contractor or subcontractor to pay prevailing wages as stipulated in City’s Prevailing Wage Policy. Prior to contracting with a third party for the construction of such Improvements, Contractor shall notify City’s Office of Equality Assurance (“OEA”) and provide a detailed scope of work to be performed. OEA will issue a Classification Determination for the work to be performed.

7.3.5 Director's Authority

The Director shall have the right to regulate and monitor the activities of Contractor.

7.3.6 Confinement of Activities

Contractor shall not conduct its activities at any location on the Airport other than in the areas expressly designated or approved in writing by the Director.

7.4 Acceptance of Premises

Contractor has carefully examined the Premises and is satisfied with the current condition, subject to any Improvements to be constructed by Contractor in accordance with Section 7.3.4 above. Contractor acknowledges that no representation or warranty has been made by City concerning the nature, quality or suitability of the Premises or the Airport for Contractor’s business, or the existence of any Hazardous Materials in, on, upon, under or about the Premises or the Airport, and Contractor acknowledges that it shall have no rights against City by reason of such matters of any claimed deficiencies therein. Contractor accepts the Premises “as is” and as being in good, safe and sanitary condition satisfactory for Contractor’s use.

7.5 Termination
This License shall terminate upon termination of the Agreement.

8. **COMPENSATION TO CONTRACTOR**

8.1 **Management Fee and Reimbursable Expenses**

In consideration of the Services rendered, and other obligations performed by Contractor under this Agreement, City agrees to pay to Contractor a management fee, and to reimburse to Contractor expenses incurred, all as is more particularly described in the Operating Budget attached hereto and incorporated herein as Exhibit F.

8.1.1 **Operating Budget**

The Operating Budget sets forth the operating budget pursuant to which Contractor shall provide services under this Agreement, including without limitation a description of management fees and reimbursable expenses to which Operator shall be entitled, and a delineation of expenses to be considered as non-reimbursable. The Operating Budget attached as Exhibit F to this Agreement shall apply to and be fixed for the initial three-year term of the Agreement, absent addition or deletion of services, facilities or reimbursable expenses as provided under the Agreement or as otherwise required in connection with any restatement of the Operating Procedures. Any revisions to the Operating Budget shall be documented in the form of a restatement of Exhibit F signed by the Director and an authorized representative of Contractor. In the event any discrepancies or inconsistencies between Exhibit F (as it may be restated) and other provisions of this Agreement arise, Exhibit F shall prevail.

8.1.2 **Option Years**

For any option terms, Contractor shall submit the Operating Budget for each term no later than 60 days prior to commencement of the term. Operating Budgets must be approved by City at least 30 days prior to commencement of the applicable term. Any increases in compensation rates shall be based only on the CPI adjustment as described in Section 8.4 below.

8.2 **Documentation of Reimbursable Expenses; No Unauthorized Reimbursements**

Expenses shall only be reimbursable to the extent that Contractor submits documentation satisfactory to the Airport that the expenses were actually incurred by Contractor in directly providing the required services to the Parking Facilities under this Agreement. Such documentation shall include, but not be limited to, copies of vendor invoices paid by Contractor, other receipts for reimbursable expenses and payroll sheets, including reconciliations of actual time worked versus scheduled hours. Contractor shall not be reimbursed for any otherwise reimbursable operating expense incurred during a particular month to the extent the amount exceeds the Operating Budget for the applicable expense unless the Director pre-approved, in writing, such expenditure.

Contractor shall not be reimbursed for any costs or expenses incurred by Contractor in the performance of this Agreement, except as expressly provided herein.

8.3 **Timing of Payment**

The management fee and reimbursable expenses shall be due and payable monthly in arrears following receipt by City of a detailed verifiable invoice, in duplicate, and associated documentation reflecting the management fee and reimbursable expenses due Contractor for such month in accordance with this Agreement, said amounts to be paid within thirty (30) days of City’s approval of said invoice and required attachments. Each payment shall be made in lawful money of the United
States to Contractor or to such person or at such place as Contractor may designate from time to time in writing.

8.4 **Consumer Price Index (CPI) Adjustment**

For any option terms, Contractor’s compensation rates shall be subject to adjustment on the first day of each option term. The adjustment shall be calculated as follows:

8.4.1 The base for computing the adjustment shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers (with a base year of 1982-1984=100) for the San Francisco-Oakland-San José area, published by the United States Department of Labor Statistics (“Index”), which is published most immediately preceding the commencement of the applicable extension term (“Extension Index”), shall be compared with the Index published most immediately preceding the commencement date of the then expiring term (“Beginning Index”). If the Extension Index published has increased over or decreased under the Beginning Index, the monthly compensation rates for the extension term shall be set by multiplying the then expiring term’s monthly compensation rate by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index. Upon adjustment of the monthly compensation rates, the parties shall immediately execute a written amendment to the Agreement setting forth the new monthly compensation rates, and attach the same as a revised exhibit to the Agreement. For any option years, the adjusted rates shall be set forth in the City’s notice of exercise of option.

8.4.2 If the Index is changed so that the base year differs from that used as of the month immediately preceding the Agreement’s commencement date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of the Agreement such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

8.4.3 The preceding provision of this Section notwithstanding, the adjustment of any monthly compensation rate for any extension term shall not exceed five percent (5%) of the previous term’s monthly compensation rate.

8.4.4 For the purpose of illustration only, if a Beginning Index is 115 and the Extension Index is 124, the monthly compensation rate to be paid during the extension term shall $ X (the then expiring term’s monthly compensation rate) multiplied by 124/115.

9. **LABOR PEACE**

As provided in the Request for Proposals, City has determined that the level of vulnerability of this Agreement to service or labor disputes is sufficient to warrant that labor peace is essential to the proprietary interest of the City. In order to assure labor peace during the term of this Agreement, Contractor hereby affirms all labor peace assurances in Contractor’s Proposal, attached hereto and incorporated herein as **Exhibit J**, entitled “Employee Work Environment and Labor Peace Questionnaire”.

Exemplar Agreement for Airport Parking Facilities Management
10. RIGHTS AND OBLIGATIONS OF CITY

10.1 Right of City

At all times during the term of this Agreement and without notice to Contractor, City and its agents, contractors, employees and officers shall have the right to perform the following:

10.1.1 Public Utilities

Install, construct, maintain, repair, replace, and use any and all public utility lines and pipes, including, without limitation, all sewer, drainage, water, irrigation, electrical and fuel lines, and any appurtenances thereto, either on, above, or below the surface of any part of the Airport;

10.1.2 Inspections

Inspect, alter, or repair any part of the Airport that the Director may deem expedient or desirable for the proper enforcement of the terms and conditions of this Agreement or for the operation of the Airport; and

10.1.3 Other necessary actions

Engage in any other action which the Director deems reasonably necessary to administer the obligations of City under this Agreement or by law, including operating the Parking Facilities if Contractor fails to do so.

10.2 Alterations, Maintenance and Repairs

City shall perform the following alterations, maintenance and repairs at the frequency and time determined by the Director:

10.2.1 Repair and maintenance

Repair and maintain the Parking Facilities surfaces, elevators, stairs, lobbies, corridors, restrooms, fencing, landscaping, signs, plumbing, electrical wiring, lighting fixtures, fire alarm call boxes, fire extinguishers, hose boxes, air conditioning, gas and electricity conduits, security alarm systems, and Parking Access and Revenue Control System (PARCS), except as otherwise provided by Contractor under this Agreement or otherwise;

10.2.2 Lighting replacement

Replace bulbs and ballasts in lamps and lighting fixtures in the Parking Facilities; and

10.2.3 Painting

Paint the cashier booths and public areas, including the painting of stripes in the Parking Facilities.

10.3 Limitation on City’s Liability

City shall not be liable for, and Contractor waives all claims and causes of action for, any liability, loss, or damage resulting, in whole or in part, directly or indirectly, from the installation of any City improvements or equipment or from the interruption of use of Contractor’s personal property in connection with City’s provision of any services.

City shall not be liable for any losses or damages resulting from City’s failure to furnish, or City’s delay in furnishing, any utility service. A temporary disruption of any utility service shall not be deemed or construed as an interference with the performance
OF CONTRACTOR’S SERVICES, AND SUCH FAILURE SHALL NOT RELIEVE CONTRACTOR OF ITS DUTY TO OBSERVE AND PERFORM ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

11. TAXES, CHARGES AND ASSESSMENTS

11.1 Taxes, Fees and Other Charges
Contractor shall pay before delinquency and without notice or demand any tax, fee, lien or charge which is levied, imposed or assessed against Contractor, Contractor’s personal property, Contractor’s interest in the Parking Facilities management operations, or for which Contractor may become liable under the provisions of this Agreement. Any such payment made under this Section shall not reduce the amount of any sum or sums collected that is required to be paid by Contractor to City under the provisions of this Agreement.

11.2 Contest of Tax
In the event that Contractor desires in good faith to contest or review by appropriate legal or administrative proceedings any tax, fee, lien or other charge specified under the provisions of this Section 11, Contractor shall give City prompt written notice of its intention to do so prior to the delinquency of any City tax, fee, lien or charge, or within the applicable time period allowed by law as to any other tax, fee, lien or charge. Contractor may withhold payment of the tax being contested if, but only if, nonpayment is permitted during the pendency of such proceedings without the foreclosure of any lien or the imposition of any fine or penalty. The contest shall be prosecuted to completion, whether or not this Agreement has expired or terminated in the interim, without delay. Within ten (10) days or the applicable time period allowed by law after the final determination of the amount due from Contractor with respect to any contested tax, fee, line or other charge, whichever is sooner, Contractor shall pay the amount so determined to be due, together with all costs, expenses and interest, whether or not this Agreement has then expired or terminated. The failure to pay any tax, fee, lien or charge under this Section 11 shall constitute a Default under this Agreement, and the obligation to pay the same shall survive the termination of this Agreement.

11.3 Tax Indemnification
Contractor agrees to protect, defend, indemnify and hold harmless City from and against any expense or damage resulting in whole or in part, directly or indirectly, from any such contest or proceeding described in Section ______. Contractor further agrees to protect, defend, indemnify and hold harmless City and the Airport and any City Improvements thereon, from and against any liability, loss, or damage resulting in whole or in part, directly or indirectly, from any tax, fee, lien or charge required to be paid by Contractor, from any other sums imposed thereon, and from any proceedings to enforce the collection of any tax lien or charge for which Contractor may be liable.

11.4 Payment by City
If Contractor fails to pay any tax, fee, lien or charge required by this Section to be paid by Contractor, City may, but is not obligated to, on five (5) days’ prior written notice to Contractor, pay, discharge, or adjust such tax, fee, lien or charge for Contractor’s benefit. In such event, Contractor, on receipt of written demand from City, shall reimburse City promptly for the full amount paid by City in paying, discharging, or adjusting such tax, fee, lien or charge, together with interest thereon from its due date at the maximum interest rate then allowed by law until paid. Any receipt showing payment by City shall be prima facie evidence that the amount of such payment was necessary and reasonable and made by City on Contractor’s behalf.
11.5 **Payment of Possessory Interest Tax**

Although this Agreement is for the provision of Parking Facilities management services, this Agreement may, but is not intended to, create a possessory interest at the Airport which may be subject to property taxation. In that event, Contractor agrees to pay such tax if and when it is due, and shall not be entitled to or claim any reimbursement or compensation therefore from City.

12. **INSURANCE**

Contractor agrees to have and maintain the insurance coverages set forth in Exhibit G, entitled “Insurance Requirements” and attached hereto.

13. **INDEMNIFICATION**

13.1 **Contractor’s Indemnification**

Contractor, for and on behalf of its Agents, Contractors, Directors, Employees, Officers, and Representatives, agrees to protect, indemnify, defend and hold harmless City, its Agents, Contractors, Employees, and Officers from and against any and all claims, demands, liabilities, losses, costs, expenses, penalties, suits, judgments, or damages, which arise in whole or in part, directly or indirectly, at any time from any injury or death to person or damage to property as a result of the willful or negligent act or omission of Contractor, its Agents, Contractors, Directors, Employees, Officers, and Representatives, or which results from their noncompliance with any laws respecting the condition, use, occupation or safety of the Premises, the Parking Facilities, or any part thereof, or which arises from Contractor’s failure to do anything required under the Agreement or for doing anything which Contractor is required not to do under the Agreement, except as may arise from the sole active negligence or the willful misconduct of City, its Agents, Contractors, Employees, and Officers. The indemnification shall extend to all claims, demands, or liens made or filed by reason of any construction, renovation, or remodeling by Contractor at any time during the term of this Agreement, or arising thereafter.

13.2 **Contractor’s Assumption of Risk**

Contractor agrees to voluntarily assume any and all risk of loss, damage, or injury to the person or property of Contractor, its Agents, Contractors, Directors, Employees, Officers, and Representatives, which may occur in, on, or about the Premises, the Parking Facilities or the Airport at any time and in any manner, except such loss, injury, or damage as may be caused by the sole active negligence or the willful misconduct of City, its Agents, Contractors, Employees, and Officers.

13.3 **Damage by Contractor**

If Contractor’s employees cause any injury, damage or loss at the Premises, the Parking Facilities or anywhere else at the Airport, Contractor shall repair, at its sole cost and expense, such injury, damage or loss at City’s direction and upon City’s prior approval. City reserves the right to perform such repairs, and bill Contractor for such reasonable costs and deduct such costs from any compensation then due and owing to Contractor. The rights of City as set forth in this Section 13.3 are not derogation of any right of City to be indemnified by Contractor for any such injury, damage or loss.
14. **WAIVER AND RELEASE**

**14.1 Personal Injury, Death and Property Damage**

As a material part of the consideration to be rendered by Contractor to City under this Agreement, Contractor waives any and all claims or causes of action against City, its agents, contractors, employees, and officers which Contractor may now or hereafter have at any time for damage to Contractor’s personal property located in, on, or about the Premises, the Parking Facilities or the Airport, and for injury to or death of any person occurring in, on or about the Premises, the Parking Facilities or Airport from any cause arising at any time, except as may arise from the sole active negligence or the willful misconduct of City, its agents, contractors, employees, and officers.

**14.2 Other Injury or Damages**

In addition to the foregoing, save and except as arises out of the sole active negligence or the willful misconduct of City, its agents, contractors, employees, or officers, Contractor specifically waives any and all claims or causes of action which it may now or hereafter have against City, its agents, contractors, employees and officers:

**14.2.1 Interruption of Utilities**

For loss, injury or damage sustained by reason of any deficiency, impairment, or interruption of any water, electrical, gas, plumbing, telephone, or drainage, sewer service or system serving any portion of the Premises, the Parking Facilities or the Airport, whether or not installed by City;

**14.2.2 Other Airport tenants**

For any loss, injury or damage arising or resulting from any act or omission of any tenant, licensee, sublicensee, concessionaire, or other occupant of any portion of the Airport, or any person who uses any portion of the Airport with or without the authorization or permission of City; or

**14.2.3 Contractor's use or occupancy**

For any loss or damage to the property of, or injury or damage to, Contractor, its agents, contractors, directors, employees, officers, or representative or any other person, from any cause or condition arising at any time on account of Contractor’s use or occupancy of the Premises, the Airport or the Parking Facilities, or Contractor’s operations on any part thereon.

15. **SECURITY; BONDS**

**15.1 Faithful Performance Bond**

On or before the Commencement Date and upon the commencement of every Anniversary Year thereafter, Contractor shall procure and provide City with a fully prepaid surety bond for at least the duration of such Anniversary Year naming City as obligee in the amount of Five Hundred Thousand Dollars ($500,000) to guarantee and assure the prompt and faithful performance of Contractor’s obligations under this Agreement. The bond shall be furnished by a surety company admitted to transact insurance in the State of California, as evidenced by the surety’s possession of a valid Certificate of Authority issued by the California Department of Insurance, as defined in the California Insurance Code. The bond shall provide at least thirty (30) days prior written notice to City of any
cancellation, termination or expiration. Alternatively, at Contractor’s option, Contractor may deposit with City a fully prepaid irrevocable letter of credit for at least the duration of such Anniversary Year and for the same amount as the faithful performance bond. The prepaid irrevocable letter of credit must be satisfactory to the Director and City’s City Attorney. The legal form of any faithful performance bond or the form of any letter of credit shall be satisfactory to the City Attorney.

15.2 Letters of Credit

City shall have the right to draw against the letter of credit in the event of a breach or default hereunder by Contractor or failure of Contractor to fully perform any obligation hereunder, as determined by Director, or in order to cure any such breach, default or failure. Within five (5) days of receipt of notice from City and after drawdown by City, Contractor shall reinstitute the original amount of the letter of credit. Failure to do so shall constitute a default under this Agreement.

16. NONDISCRIMINATION

Contractor certifies that, in dealing with any subcontractors under this Agreement, it has not discriminated or given any preference to any firm based on race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. Contractor shall fully comply with all Federal and State of California laws pertaining to nondiscrimination, and Chapter 4.08 of the San José Municipal Code, and shall not discriminate or grant preferential treatment on the basis of age, sex, race, religion, color, creed, disability, ethnicity, sexual orientation, actual or perceived gender identity or national origin in connection with or related to the performance of this Agreement. Contractor understands that any such discrimination or preference is in violation of Chapter 4.08 of the San José Municipal Code. Contractor shall make efforts to include participation from all segments of the community in connection with or related to the performance of this Agreement.

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

Contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

17. AIRPORT SECURITY

17.1 Security Plan

The Airport has implemented an Airport Master Security Plan (“Security Plan”) in a form acceptable to the Federal Aviation Administration (“FAA”) pursuant to 14 CFR Part 107. The Airport reserves the right to modify the Security Plan from time to time, as it deems necessary to accomplish its purposes. Contractor agrees to abide by all provisions of the Security Plan and institute and carry out all security measures as provided in the Security Plan.

17.2 Indemnification
CONTRACTOR AGREES TO PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY FROM AND AGAINST ANY FINE(S) LEVIED BY THE FAA AND/OR TRANSPORTATION SECURITY ADMINISTRATION (“TSA”) AGAINST CITY FOR ANY BREACH OF THE SECURITY PLAN OR FEDERAL AIRPORT SECURITY REGULATIONS CAUSED BY OR ATTRIBUTABLE TO CONTRACTOR, ITS AGENTS, CONTRACTORS, DIRECTORS, EMPLOYEES, OR OFFICERS. CONTRACTOR AGREES TO PAY OR REIMBURSE CITY FOR ANY SUCH FINE(S) ASSESSED TO CITY BY THE FAA AND/OR TSA, WHICH ARE CAUSED BY OR ARE ATTRIBUTABLE TO CONTRACTOR OR ITS AGENTS, CONTRACTORS, DIRECTORS, EMPLOYEES, OR OFFICERS. SUCH FINE(S) SHALL BE ASSESSABLE TO CONTRACTOR BY CITY AND SHALL BE PAYABLE TO CITY UPON RECEIPT OF INVOICE.

17.3 Parties’ Responsibilities
Contractor shall be solely responsible for instituting and carrying out specific security measures in the Parking Facilities and Premises where Contractor is authorized to operate to prevent vandalism or damage to persons or property. City shall be responsible only for general security throughout the Airport and shall not be liable for any vandalism or damage to persons or property that may occur in the areas of Contractor’s operation.

17.4 Security Mandates
Contractor recognizes that the Airport is required to comply with the security mandates of the Department of Transportation, the FAA, the TSA, the Department of Homeland Security, and with other governmental and administrative rules and regulations relating to airports. Any procedures determined by City to be applicable to Contractor in order for City to comply with the foregoing will be furnished to Contractor in writing and delivered by email and/or facsimile, confirmed by mail, to Contractor at its notice address provided in this Agreement. Such procedures are subject to change without notice other than delivery thereof as provided herein.

17.5 Employee Training, Badging and Security Clearance
Contractor shall ensure that its employees participate in such safety, security and other training and instructional programs as City or appropriate federal agencies may from time to time require. To the extent any Contractor employees require identification badges or security clearance, Contractor is responsible, at its expense, for securing such badges or clearance.

18. RULES AND REGULATIONS

18.1 Airport Rules
Contractor shall faithfully observe and comply with all Airport rules and regulations and all reasonable modifications of and additions thereto that may be promulgated from time to time by City or the Director on City’s behalf.

18.2 ACDBE Program
The City has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 23. The requirements of the ACDBE Program are attached as Exhibit H to this Agreement.

18.3 EPP Policy
The City has adopted an Environmentally Preferable Procurement ("EPP") policy. In performance of this Agreement, Contractor shall apply the EPP policy where it is feasible to do so. The EPP policy can be found on the City’s website at the following link: http://www.sanjoseca.gov/esd/natural-energy-resources/epp.htm

19. GRANT AGREEMENTS

19.1 Subordination
This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between City and the United States which relates to the use, development, operation, security or maintenance of the Airport, the execution of which is or may be required by the United States as a condition precedent to the grant or expenditure of federal funds for the Airport.

19.2 Grant Agreement Covenants
Contractor acknowledges that City is subject to Federal Grant Agreement obligations as a condition precedent to the granting of federal funds for improvements to the Airport, and, accordingly, Contractor agrees to, and agrees to be bound by, the following covenants provided by the Federal Aviation Administration as they may apply to Contractor.

19.2.1 Contractor for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on any areas occupied by Contractor and described in this Agreement for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Contractor shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

19.2.2 Contractor for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the facilities; (2) that in the construction of any improvements on, over, or under any areas occupied by Contractor and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and (3) that Contractor shall use any areas occupied by Contractor in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as the Regulations may be amended.

19.2.3 That in the event of breach of any of the above nondiscrimination covenants, City (through Director) shall have the right to terminate this Agreement and to reenter and repossess the areas occupied by Contractor and the facilities thereon, and hold the same as if this Agreement had never been made or issued. This provision does not become effective until the procedures of Title 49
Code of Federal Regulations (CFR) Part 21 are followed and completed including expiration of appeal rights.

19.2.4 Contractor shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service. Contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

19.2.5 Without limiting the generality of any other terms or provisions of this Agreement, non-compliance with Provision 19.2.4 above shall constitute a material breach thereof and in the event of such non-compliance the City (through Director) shall have the right to terminate this Agreement and the estate hereby created without liability therefor or, at the election of the City or the United States, either or both governments shall have the right to judicially enforce Provisions 19.2.1, 19.2.2, 19.2.3 and 19.2.4 of this Section.

19.2.6 Contractor agrees that it shall insert the above five (5) Provisions in any agreement by which Contractor grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public in the Parking Facilities.

19.2.7 Contractor assures that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from federal assistance. This Provision obligates Contractor or its transferee for the period during which federal assistance is extended to the Airport, except where federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, this Provision 19.2.7 obligates Contractor or any transferee for the longer of the following periods: (a) the period during which the property is used by City or any transferee for a purpose for which federal assistance is extended, or for any purpose involving the provision of similar services or benefits; or (b) the period during which City or any transferee retains ownership or possession of the property. In the case of contractors, this Provision 19.2.7 binds the contractors from the bid solicitation period through the completion of the contract.

19.2.8 City reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or views of Contractor and without interference or hindrance.

19.2.9 City reserves the right, but shall not be obligated to Contractor, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Contractor in this regard.

19.2.10 This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between City and the United States, relative to the development, operation or maintenance of the Airport.

19.2.11 There is hereby reserved to City, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Parking Facilities herein authorized. This public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for navigation or flight through the
airspace or landing at, taking off from or operation on the Norman Y. Mineta San José International Airport.

19.2.12 Contractor agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (FAR) in the event any future structure or building is planned for the location(s) of its activities, or in the event of any planned modification or alteration of any present or future building or structure situated at the Airport.

19.2.13 Contractor by accepting this Agreement expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Airport to a height above the mean sea level that would exceed Federal Aviation Regulations Part 77 standards or elevations affecting the Airport navigable airspace. In the event the aforesaid covenants are breached, City reserves the right to enter upon any area utilized by Contractor and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Contractor.

19.2.14 Contractor by accepting this Agreement agrees for itself, its successors and assigns that it will not make use of the Parking Facilities in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this covenant is breached, City reserves the right to enter upon the Parking Facilities and cause the abatement of such interference at the expense of Contractor.

19.2.15 It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of any exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. Section 1349a).

19.2.16 This Agreement and its provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

20. **COMPLIANCE WITH LAWS**

Contractor shall comply with all Laws now in force or which may hereafter be in force pertaining to Contractor, the Parking Facilities, the Premises, the Airport and/or this Agreement, including, without limitation, Section 6300 et seq. of the California Labor Code. Contractor shall comply with the requirements and conditions of any bond or fire underwriters or other similar body now or hereafter constituted, and with the requirements and conditions of any discretionary or occupancy permit issued pursuant to any law of any public official. Contractor shall also comply with any and all provisions of all recorded documents affecting the Premises, the Airport or the Parking Facilities on the Commencement Date, insofar as any are required by reason of use of the Premises, the Airport or the Parking Facilities by Contractor.

21. **REPRESENTATIONS AND WARRANTIES**

Contractor represents and warrants with respect to this Agreement, and any amendment hereto:

21.1 *Proposal representations*
That all information submitted by Contractor, its agents, contractors, directors, employees, officers, and representatives (“the aforementioned parties”) during City’s Airport Parking Facilities Management Services Request for Proposal process, or thereafter, upon request, whether or not submitted by any of the aforementioned parties under a continuing obligation by the terms of this Agreement to do so, was true and correct at the time such information was submitted or made available to City.

21.2 **No collusion**

That none of the aforementioned parties has colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Contractor’s response and City’s Airport Parking Facilities Management Services Request for Proposal.

21.3 **Authority to execute agreement**

That Contractor has the power and authority to enter into this Agreement with City, that the Board of Directors of Contractor has by corporate resolution approved Contractor’s power and authority to enter into this Agreement and bind Contractor, that this Agreement shall be executed, delivered and performed pursuant to the power and authority conferred by the Board of Directors of Contractor and be binding upon Contractor, and that the individual executing this Agreement on Contractor’s behalf is duly authorized to do so.

21.4 **No undue influence**

That none of the aforementioned parties has made an attempt to exert undue influence with the City’s Airport Parking Facilities Management Services evaluation committee to award the contract to Contractor.

21.5 **No claims or disputes**

That there are no unresolved claims or disputes between Contractor and City.

21.6 **Financial information**

That Contractor has furnished, and will furnish, true and accurate financial statements of gross receipts, records, reports resolutions, certifications, and other information as may be requested of Contractor by City from time to time during the term of this Agreement.

22. **ASSIGNMENT AND/OR SUBCONTRACTING**

22.1 **No Unauthorized Subcontracting**

Contractor shall not subcontract any of its rights or obligations under this Agreement without the prior written consent of the Director. In addition, Contractor shall not otherwise assign, transfer, lease, license, convey, sell, hypothecate, or encumber by deed of trust or mortgage or otherwise, or pledge to any person (“proposed transferee”) this Agreement, the Premises or the Parking Facilities, or any part thereof, or any rights or obligations of Contractor hereunder, whether voluntary or by operation of law. Any assignment, transfer, lease, license, conveyance, sale, subcontract, hypothecation or encumbrance by deed of trust or mortgage or otherwise, or pledge in violation of the provisions of this Section shall be void and shall entitle City, at its option, to terminate this Agreement. The acceptance of management fees by Contractor or any other fee or charge by City or the continuation of the use of the Parking Facilities, the Airport or Premises by Contractor or the proposed transferee shall not be
deemed a waiver of City’s right to terminate this Agreement on account of Contractor’s violation of this provision.

22.2 Change in Ownership

If Contractor is a partnership, a withdrawal or change, whether voluntary or by operation of law, of the partner or partners owning fifty-one percent (51%) or more of the partnership, or the dissolution of the partnership, shall be deemed a voluntary assignment. If Contractor is a corporation, any dissolution, merger, consolidation or other reorganization of Contractor, or the sale or transfer of a controlling percentage of the capital stock of Contractor, or the sale of at least fifty-one percent (51%) of the value of the assets of Contractor, shall be deemed a voluntary assignment. This Section shall not apply to corporations whose stocks are traded on national stock exchanges. “Controlling percentage” as used herein means the ownership of voting stock comprising at least fifty-one percent (51%) of the total combined voting power of all classes of Contractor’s capital stock issued, outstanding and entitled to vote for the election of directors.

23. DESTRUCTION OF AIRPORT FACILITIES

City shall determine in its sole discretion whether to repair any damage to the common areas and facilities of the Airport. If the Parking Facilities are totally or substantially damaged, or City cannot complete the repair or restoration of such areas within six (6) months after the commencement date of repair or restoration, City may, at its option, give Contractor notice of its intention to terminate this Agreement on a specified date.

24. BREACH AND WAIVER

24.1 Breach

City shall deliver to Contractor written notice of any breach of this Agreement by Contractor. If Contractor fails to cure said breach within ten (10) days after the City delivers such notice, City may, but shall have no obligation to, upon condition that City shall act for the account and at the expense of Contractor and without a waiver of such breach, perform any act which, if performed by Contractor, would otherwise cure the breach. If, in so doing, City is required or elects to pay any money or do any act which will require the payment of any money or the incurrence of any cost or expense, Contractor shall reimburse City the sum or sums of money so paid or incurred by City, together with interest at the maximum interest rate then allowed by law, plus costs and damages, within three (3) days after the first day of the calendar month following City’s payment of same.

24.2 No Waiver by City

The waiver by City of any breach of any provision of this Agreement shall not be deemed to be a waiver or continuing waiver of any subsequent breach of the same or any other provision. Nor shall any custom or practice which may arise between the parties in the administration of any part of the provisions of this Agreement be construed to waive or to lessen the right of City to insist upon the performance by Contractor in strict accordance with the provisions of this Agreement.

25. DEFAULT AND REMEDIES AND LIQUIDATED DAMAGES

25.1 Default
The occurrence of any of the following shall constitute a “Default” under this Agreement:

25.1.1 *Failure to commence services*
Contractor’s failure to promptly commence Airport Parking Facilities Management Services at the Airport on the Commencement Date; or

25.1.2 *Failure to deposit fees*
Contractor’s failure to deposit the Parking Fees, when due, or failure to perform any obligation requiring the payment of money under the provisions of this agreement and such failure continues for a period of three (3) days or other period as expressly stated herein; or

25.1.3 *Failure to cure breach*
Contractor’s failure to perform any other provision of this Agreement required to be performed by Contractor and, except as otherwise provided in this Agreement, Contractor’s failure to cure the same within ten (10) days after the City delivers written notice pursuant hereto where such failure could reasonably be cured within ten days of the written notice. Where such failure to perform cannot be reasonably cured within ten (10) days of the written notice, then Contractor shall not be in default, unless within the ten (10) days Contractor fails to commence and thereafter to continue making diligent and reasonable efforts to cure such failure to perform as soon as practicable. This Section shall not apply to any provision requiring the payment of money; or

25.1.4 *Assignment of assets*
Contractor’s general assignment of its assets for the benefit of Contractor’s creditors; or

25.1.5 *Assignment of Agreement*
Contractor’s assignment hereunder in violation of the provisions of this Agreement, whether voluntary or by operation of law; or

25.1.6 *Failure to provide services*
Contractor’s failure to provide Services in a manner satisfactory to City for any period of time and, except as otherwise provided in this Agreement, Contractor’s failure to cure the same within ten (10) days after the City delivers written notice pursuant hereto where such failure could reasonably be cured within ten days of the written notice; or

25.1.7 *Insolvency*
A court’s entry of any decree or order (I) adjudging Contractor to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of Contractor or an arrangement under the bankruptcy laws or any other applicable debtor’s relief law or statute of the United States or any State thereof, (iii) appointing a receiver, trustee or assignee of Contractor in bankruptcy or insolvency or for its property, or (iv) directing the winding up or liquidation of Contractor, and such decree or order shall continue for a period of sixty (60) days or Contractor shall voluntarily submit to or file a petition seeking any such decree or order; or

25.1.8 *Attachment of interest in Agreement*
The sequestration or attachment of or execution or other levy on Contractor’s interest in this Agreement or the Airport, the Premises, the Parking Facilities or on Contractor’s Improvements, if
any, located thereon occurs and Contractor fails to obtain a return or release of such interest or property within thirty (30) days thereafter, or prior to sale pursuant to such levy, whichever first occurs; or

25.1.9 Impairment of financial condition
The Director’s determination that there is a reasonable probability that Contractor’s financial condition is impaired and Contractor cannot provide adequate assurances that any conditions giving rise to the impairment of financial condition can be removed within thirty (30) days of receipt of City’s demand for same.

25.1.10 False or misleading representations
Any representation or warranty made by Contractor hereunder or under any instrument delivered in connection therewith that was false or misleading in any material respect as of the date on which such representation or warranty was made.

25.1.11 Default under License
The occurrence of a Default under the License granted pursuant to Section 7.

25.2 Remedies for Default

25.2.1 Remedies Cumulative
Upon the occurrence of a default under this Agreement, City shall have all the rights and remedies set forth in this Section 25.2. The City may resort to the rights and remedies set forth in this Section cumulatively or in the alternative. The rights and remedies set forth in this Section shall be in addition to all other rights and remedies provided by Law or equity.

25.2.2 Effectiveness of Agreement
At City’s election, City may keep this Agreement in effect and enforce all of its rights and remedies under this Agreement, including the right to withhold the management fee and other fees as they become due. At City’s option, but without any obligation to do so and without waiving or relieving Contractor from any of its obligations under this Agreement, City may make any payment or perform any act to the extent City may deem appropriate as a result of the Contractor’s default. Except where otherwise prescribed in this Agreement, all sums so paid by City and all penalties, interest and costs in connection therewith shall be due and payable by Contractor to City within ten (10) days of written demand from the Director for payment of same, together with interest thereon from date of advance by City at the maximum interest rate then allowed by law, plus costs as may be awarded by a court of competent jurisdiction.

25.2.3 Termination
At City’s election, City may terminate this Agreement by giving Contractor written notice of termination, in which event this Agreement shall terminate on the date set forth for termination in such notice. Any termination under this paragraph shall not relieve Contractor of the obligation to pay any Parking Fees then due to City or from any claim for damages previously accrued or then accruing against Contractor. The Director is empowered to terminate this Agreement on behalf of the City.
25.2.4 City’s Mitigation

In the event Contractor ceases to provide Services to the Parking Facilities, this Agreement shall not terminate, unless City gives Contractor written notice of its election to terminate this Agreement. No act by or on behalf of City intended to mitigate the adverse effect of such breach shall constitute a termination of Contractor’s right to render Services to the Parking Facilities, unless City gives Contractor written notice of termination.

26. LIQUIDATED DAMAGES FOR PERFORMANCE STANDARD BREACHES

26.1 Liquidated Damages for Failure to Attain Performance Standards

Contractor understands and agrees that one of the City’s primary goals in granting this Agreement is to ensure that the customer service provided is of the highest caliber and consistent with the image that the City and the Airport want to project to their users and visitors. Contractor further agrees that City will suffer damage if Contractor fails to meet these standards and that, due to the nature of certain breaches, the actual damage to the City would be impractical or very difficult to fix.

CONTRACTOR AND CITY AGREE THAT THE AMOUNTS SET FORTH IN SECTION 26.2, BELOW, SHALL BE PAID TO CITY AS LIQUIDATED DAMAGES ON A MONTHLY BASIS IF CONTRACTOR BREACHES THAT PERFORMANCE STANDARDS SPECIFIED IN SUCH SECTION 26.2. CONTRACTOR AND CITY ACKNOWLEDGE THAT CITY’S ACTUAL DAMAGES IN THE EVENT OF A BREACH OF SUCH PERFORMANCE STANDARDS WOULD BE IMPRACTICAL TO DETERMINE. THEREFORE, BY PLACING THEIR SIGNATURES BELOW, CITY AND CONTRACTOR ACKNOWLEDGE THAT THE AMOUNTS SET FORTH IN SECTION 26.2 HAVE BEEN AGREED UPON AS THE PARTIES’ REASONABLE ESTIMATE OF CITY’S DAMAGES IN THE EVENT OF SUCH BREACH.

CITY: ______________________  CONTRACTOR: ______________________

26.2 Performance Standard Breaches

The following specified items shall be referred to as “Performance Standard Breaches”. Contractor agrees to pay to the City the amount specified below as liquidated damages for the applicable breach.

<table>
<thead>
<tr>
<th>Item</th>
<th>Liquidated Damages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Failure to provide required staffing.</td>
<td>$500 per hour or portion thereof for each staff member in variance</td>
</tr>
<tr>
<td>2. Delay in submitting reports or other documents required by the Agreement.</td>
<td>$100 per occurrence and $100 for each 24 hour period thereafter.</td>
</tr>
<tr>
<td>3. Number of customer complaints exceeds 3 in any one calendar month period.</td>
<td>Warning for first 3 complaints; $100 for 4th complaint in calendar month. $25 for each additional complaint per calendar month.</td>
</tr>
<tr>
<td>4. Customer complaint response time exceeds 48 hours.</td>
<td>$50 for each day exceeding 48 hours up to 3 days; $100 per day for the 4th day on.</td>
</tr>
<tr>
<td>5. Cashier failure to display nameplate at cashier booth.</td>
<td>$50 per violation</td>
</tr>
<tr>
<td>6. Failure to make daily deposits of all receipts</td>
<td>$100 per occurrence for each day beyond deposit deadline</td>
</tr>
</tbody>
</table>
7. Failure to comply with proper parking transaction processes | $50 per incorrect transaction
8. Cashier not in compliance with dress code | $50 per violation
9. Failure to maintain accurate parking permit and media access records or to deliver related documentation to Airport in timely manner. Failure to notify of delinquencies in payments to parking programs | $25 per piece of unaccounted for media. $100 per occurrence for non-timely documentation
10. Failure to perform custodial, maintenance or repair duties | $50 per occurrence

26.3 Procedure for Declaring Performance Standard Breaches
The procedures for declaring performance standard breaches shall be as follows:

26.3.1 Written Notice
Upon determining the existence of a Performance Standard Breach, the Director shall issue a written notice to Contractor of the occurrence of such breach and the City’s claim for liquidated damages.

26.3.2 Contest of Notice
The notice of Performance Standard Breach shall become final unless the Director receives from Contractor no later than ten (10) calendar days after the date of the notice of Performance Standard Breach, a written statement from Contractor, accompanied by Contractor’s evidence that the breach did not occur. Director shall review such evidence and determine, in his reasonable discretion, whether Contractor has demonstrated that the breach did not occur.

26.3.3 Director's review
The Director shall review Contractor’s evidence as soon as reasonably possible after timely receipt of such evidence.

26.3.4 Director's decision
The Director shall render a decision sustaining or reversing the determination that a breach occurred and the claim for liquidated damages. A written notice of decision shall be delivered to the Contractor.

26.3.5 Finality of Director's decision
If such written evidence is not received by the Director within ten (10) calendar days of the date of the notice of Performance Standard Breach, the Director’s determination shall be final and the applicable liquidated damages shall be immediately due and payable.

26.3.6 Assessment of liquidated damages
Upon expiration of the period to deliver evidence or upon Director’s determination that a breach occurred after reviewing Contractor’s evidence as provided above, City will apply liquidated damages amounts as an adjustment to the monthly management fee calculation. Contractor further agrees that Director may, at his option, deduct the amount of such liquidated damages from any deposit or performance guarantee provided by Contractor, without further notice to Contractor.
27. **HAZARDOUS MATERIALS**

Disposal of Hazardous Materials on the Airport is strictly prohibited. Storage and use of Hazardous Materials on the Airport is prohibited, except: Contractor may store and use Hazardous Materials on the Premises in a safe and prudent manner and in accordance with the requirements of all applicable Environmental Laws those kinds and quantities of Hazardous Materials that are normally used in conducting the activities permitted under this Agreement. Contractor shall provide Director with a copy of any application for a permit for use or storage of Hazardous Materials on the Premises from any regulatory agency responsible for enforcement of Environmental Laws, and shall also provide a copy of any permit received from such agency.

Contractor shall at all times comply with the provisions of this Agreement, including those provisions of **Exhibit I**, regarding Hazardous Materials.

28. **BOOKS AND RECORDS**

   **28.1 Maintenance of Records**

Contractor shall keep and maintain at its own expense and at its office at the Airport, separate and independent records in a separate set of books devoted exclusively to its operations at the Airport. Said books (i.e., ledgers, journals, accounts, supporting documents and other records) shall be maintained in accordance with generally accepted accounting principles and shall contain all entries reflecting all of the business operations of Contractor’s original transaction under this Agreement, including but not limited to transactions processed through the PARCS, and all other records required to be maintained under this Agreement. All of such books shall be open for examination and audit by the Director during ordinary business hours without prior notice. Contractor shall keep each year’s books for four (4) years after the end of each such years.

   **28.2 Inspection**

      **28.2.1 Availability**

Upon Director’s written request, Contractor shall make available within twenty-four (24) hours at the Airport for inspection any and all books records and accounts pertaining to its operations under this Agreement and shall fully cooperate with Airport in the conduct of such inspection. Contractor shall keep and maintain records which will enable Airport and City Auditor to ascertain, determine and audit, if so desired by City, clearly and accurately, the Parking Fees received by Contractor and that the form and method of Contractor’s reporting of Parking Fees shall be adequate to provide a control and test check of all revenues derived by Contractor under this Agreement.

      **28.2.2 Underpayment**

Should any examination, inspection, and audit of Contractor’s books and records by City disclose an underpayment by Contractor in excess of one-half of one percent (0.5%) of the Parking Fees due for any particular test, audit or reporting period, Contractor shall promptly pay the City the amount of such underpayment and shall reimburse the City for all costs incurred in the conduct of such examination, inspection, and audit.

   **28.3 Ownership of Materials**

Contractor shall agree that the City is the owner of all unused and used parking tickets and tapes and other records used in the operations of the PARCS devices. Such tickets, tapes, and records shall be
stored by Contractor at the Airport and made available by Contractor for Director’s examination. Contractor shall maintain a written account of all tickets, tapes and other records described herein taken into Contractor’s possession and shall present said written account to Director on demand.

29. TRANSITION

Upon the expiration of this Agreement or its earlier termination, the Contractor agrees to cooperate fully with the City in the smooth and businesslike transition of the management and operation of the Parking Facilities to a new operator. This obligation shall include, but not be limited to, providing the City and any new operator, as identified by the City, with the names of all employees who would qualify as Qualified Retention Employees under the Living Wage Policy.

30. NOTICES

All notices, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments or designations hereunder given by either party to the other, shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by United States certified mail, postage prepaid, (3) sent by express delivery service, or (4) sent by facsimile transmission to the telephone number(s) set forth below during normal business hours of the receiving party and followed within forty-eight (48) hours by delivery of hard copy of the material sent by facsimile, in accordance with (1), (2), or (3) above. Personal service shall include, without limitation, service by delivery service. Delivery of notices properly addressed shall be deemed complete when the notice is physically delivered to the Director or Contractor’s manager.

If to City, the same shall be addressed to:

(1) Director of Finance
    Purchasing Officer
    200 E. Santa Clara St., 13th Floor, tower
    San José, CA 95113
    FAX: (408) 292-6480

with a copy to:

(2) Director of Aviation, San José International Airport
    Re: Parking Operations
    1701 Airport Boulevard, Suite B-1130
    San José, CA 95110-1206
    FAX: (408) 392-3597

And

(3) City Attorney, City of San José
    200 East Santa Clara
    16th Floor Tower
    San José, Ca 95113
    FAX: (480) 998-3131
or to such other place as City may designate in writing.

If to Contractor, the same shall be addressed to:

________________________
________________________
________________________

31. **APPROPRIATION OF CITY FUNDS; TERMINATION FOR CONVENIENCE**

City's funding of the Agreement shall be on a fiscal year basis (July 1 to June 30) and is subject to annual appropriations. Contractor acknowledges that City, a municipal corporation, is precluded by the California State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the initial term of this Agreement and the exercise of any option years thereto is contingent upon the appropriate of funds by the City. This Agreement will terminate immediately if the funds necessary to continue the Agreement are not appropriated.

Further, City shall have the right to terminate this Agreement, at anytime and without cause, by giving not less than thirty (30) days written notice of termination. The Director is empowered to terminate this Agreement on behalf of the City.

32. **MISCELLANEOUS**

32.1 **Authorization of Contractor**

Contemporaneous with the execution and delivery of this Agreement, Contractor shall submit to City a certificate of officer, good standing certificate(s) and such other documents as City may require, each in form and substance satisfactory to City, regarding the authorization of Contractor to enter into this Agreement.

32.2 **Bailee Disclaimer**

The parties understand and agree that City does not purport to be Contractor’s bailee, and is therefore not responsible in any way for any damage to Contractor’s personal property or the property of Contractor’s agents, contractors, employees, directors, officers, or representatives.

32.3 **Consent**

Whenever in this Agreement the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.

32.4 **Controlling Law**

Except as federal law may apply, the parties agree that this Agreement shall be governed and construed by and in accordance with the laws of the State of California.
32.5 **Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

32.6 **Force Majeure**

Contractor shall not be deemed to be in breach of any obligation under this Agreement, other than any obligation requiring the payment of money, to the extent any reasonable delay or failure to perform such obligation is caused by an Act of God.

32.7 **Gifts**

Contractor represents that its agents, directors, contractors, employees, officers, and representatives are familiar with City’s prohibition against the acceptance by a City officer on designated employee of gifts prohibited by Chapter 10.36 of the San José Municipal Code, and agrees that they, and each of them, will not offer to any City officer or designated employee any gift so prohibited. The offer or giving of any gift prohibited by the Municipal Code shall constitute a Default under this Agreement.

32.8 **Headings**

The paragraph headings are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of the Agreement.

32.9 **Incorporation of Exhibits**

All exhibits referred to in this Agreement and any addenda, appendices, attachments, exhibits, and schedules which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and shall be deemed to be part of this Agreement.

32.10 **Integration**

This Agreement constitutes the entire agreement between the parties concerning its subject matter, and there are no other oral or written agreements between the parties not incorporated in this Agreement.

32.11 **Modification of Agreement**

This Agreement shall not be modified, unless the parties first agree to and approve of such modification in writing.

32.12 **Provision**

Any agreement, covenant, condition, clause, qualification, restriction, reservation, term, or other stipulation in the Agreement shall define or otherwise control, establish, or limit the performance required or permitted by either party to this Agreement. All provisions, whether covenants or conditions, which are applicable to Contractor, shall be deemed to be both covenants and conditions.

32.13 **Responsibility of Contractor**

Except as otherwise provided in this Agreement, Contractor assumes the risk of and shall be responsible for any loss or damage to any materials, documents or other property delivered to it by City. Contractor shall return such property to City in the condition in which it was received, except for reasonable wear and tear, upon the expiration or earlier termination of this Agreement.

32.14 **Severability**

If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the remaining provisions of this Agreement shall remain in effect.
32.15 Status of Contractor
In exercising its rights and obligations under this Agreement, Contractor acts as an independent contractor and not as an agent or employee of City, except as otherwise provided in this Agreement. Neither Contractor nor its agents, contractors, employees, and representatives are entitled to any rights, and benefits accorded or accruing to employees of City, and Contractor on behalf of itself and its agents, contractors, directors, employees, and representatives expressly waive any and all claims to such rights and benefits.

32.16 Successors and Assigns
The provisions of this Agreement shall, subject to the Assignment provisions, apply to and bind the successors and assigns of the parties hereto.

32.17 Time of Essence
Time is of essence of this Agreement and each of its provisions.

32.18 Venue
In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the City of San José, County of Santa Clara or in the United States District Court in the Northern District of California in the City of San José.

EXECUTED BY THE PARTIES on the date first stated above.

APPROVED AS TO FORM: City of San José
Deputy City Attorney

By ________________________________
Name: ______________________________
Title: ______________________________
Contractor

a ______________________________
By ________________________________
Name: ______________________________
Title: ______________________________
EXHIBIT A

DIAGRAM OF AIRPORT
EXHIBIT B

DIAGRAM OF PARKING FACILITIES
EXHIBIT C

OFFICE AND STORAGE SPACE
EXHIBIT D

SCOPE OF SERVICES
EXHIBIT G

INSURANCE REQUIREMENTS

Contractor, at Contractor’s sole cost and expense, shall procure and maintain for the duration of this Agreement (or for such longer periods as are specified) insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by Contractor, its agents, representatives, employees or subcontractors.

A. Policies to be Maintained

1. Commercial General Liability policy with a minimum limit of not less than $5,000,000 combined single limit for bodily injury and property damage, providing at least all of the following minimum coverages, with any self-insured retention not exceeding $100,000 per occurrence:
   a. Premises Operations
   b. Owners' and Contractor's Protective
   c. Blanket Contractual
   d. Broad Form Property Damage
   e. Completed Operations
   f. Products (on an "if any" basis)
   g. Personal Injury (Coverage for A, B and C)
   h. Fire Legal Liability (with a minimum limit of $100,000 per structure).

2. Business Auto Liability policy with a minimum limit of not less than $1,000,000 combined single limit for bodily injury and property damage, providing at least all of the following coverages, with any self-insured retention not exceeding $100,000 per occurrence. Coverages shall be applicable to any and all leased, owned, hired or non-owned vehicles used in any of the activities associated with this Agreement.

3. Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Contractor. This policy shall:
   a. Provide coverage for Workers' Compensation (Coverage A), and
   b. Provide coverage for $1,000,000 Employers' Liability (Coverage B)

   a. A comprehensive crime policy, with a minimum limit of not less than $250,000 and a deductible not exceeding $50,000, providing at least the following minimum
      i. Employee Dishonesty Coverage - Form A
      ii. Depositors Forgery Coverage
   b. The policy shall contain a provision either:
      i. Naming City as an insured, or
ii. Providing that by reason of any loss resulting from Contractor's operation or maintenance of the Sites, City shall have a direct right against the insurer for such loss, and such loss shall be payable directly to City upon request.

6. Garagekeepers' Legal Liability policy with a minimum limit of not less than $100,000 per occurrence, providing at least the following minimum coverages:

   a. Collision - (deductible not to exceed $500 per occurrence), and
   b. ACV Comprehensive - (deductible not to exceed $500 per occurrence).

7. Operators Errors and Omissions Insurance $1,000,000 Aggregate Limit; and

8. Property insurance against all risks of loss to any Operator improvements or betterments including Business Interruption; Property insurance against all risks of loss including but not limited to fire, vandalism and malicious mischief, and other perils at the Landlords desecration, in an amount equal to 100% of the replacement cost of all furniture, fixtures, stock and equipment, including fixtures, improvements and betterments installed by Operator, in the leased Premises; Plate Glass coverage and Business Interruption coverage to include not less than the Actual Loss Sustained by the Insured during a Period of Interruption.

There shall be no endorsement reducing the scope of coverage required unless approved by the City’s Risk Manager.

B. **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City’s Risk Manager.

C. **Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. **Commercial General Liability and Automobile Liability Coverage**
   
   a. The City of San Jose, its officers, employees, agents and Operators are to be covered as additional insured as respects: Liability arising out of activities performed by or on behalf of, Operator; products and completed operations of Operator; premises owned, leased or used by Operator; and automobiles owned, leased, hired or borrowed by Operator. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and Operators.
   
   b. Operator’s insurance coverage shall be primary insurance as respects City, its officers, employees, agents and Operators. Any insurance or self-insurance maintained by City, its officers, employees, agents or Operators shall be excess of Operator’s insurance and shall not contribute with it.
c. Any failure to comply with reporting provisions of the policies by Operator shall not affect coverage provided CITY, its officers, employees, agents, or Operators.

d. Coverage shall state that Operator’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

e. Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors

2. Workers’ Compensation and Employers’ Liability
Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors.

3. All Coverages
Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to City’s Risk Manager, except that ten (10) days’ prior written notice shall apply in the event of cancellation for non-payment of premium.

D. **Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to City's Risk Manager.

E. **Verification of Coverage**

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address (or any subsequent email or postal address as may be directed in writing by the Risk Manager):

City of San Jose - Human Resources  
Risk Management  
200 East Santa Clara St., 2nd Floor - Wing  
San Jose, CA 95113-1905

F. **Subcontractors**

Contractor shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.
**G. Review**

The City reserves the right to review the foregoing insurance requirements from time to time and to require Contractor to provide additional or different coverages, and Contractor agrees to provide the same within thirty (30) days of receiving written notice from City.
EXHIBIT H

ACDBE PROGRAM

1 POLICY STATEMENT

The City of San José has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) Program in accordance with regulations of the U. S. Department of Transportation (DOT), 49 CFR Part 23. A copy of the ACDBE Program is available from the Office of Equality Assurance, 200 East Santa Clara Street, Fifth Floor, San José, CA 95113, 408-535-8455. The City receives federal financial assistance from the DOT, and as a condition of receiving this assistance, the City assures that it will comply with 49 CFR Part 23.

It is the policy of the City of San José to ensure that Disadvantaged Business Enterprises (ACDBEs), as defined in Part 23, have an equal opportunity to receive and participate in Airport Concessions. It is also our Policy to:

- Ensure nondiscrimination in the award and administration of Airport Concessions;
- Create a level playing field on which ACDBEs can compete fairly for Airport Concessions;
- Ensure that the ACDBE Program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet 49 CFR Part 23 eligibility standards are permitted to participate as ACDBEs;
- Help remove barriers to the participation of ACDBEs in Airport Concessions; and
- Assist the development of firms that can compete successfully in the marketplace outside the ACDBE Program.

The City’s Director of the Office of Equality Assurance has been delegated as the ACDBE Liaison Officer. In that capacity, the Director is responsible for implementing all aspects of the ACDBE Program. Implementation of the ACDBE Program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the Department of Transportation.

2 DEFINITION OF TERMS

The terms used in the Program have the meanings defined in 49 CFR Section 23.3 and Section 26.5 and are as follows:

2.1 Disadvantaged Business Enterprise

Means a for-profit small business concern that is:

1) At least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
3) Whose personal net worth does not exceed $750,000.

2.2 Small Business Concern

In order to qualify as an ACDBE, a firm must qualify as a small business concern. As a general rule, the ACDBE regulations treat a firm as a small business concern eligible to be certified as an ACDBE if its gross receipts, averaged over the firm’s previous three fiscal years, do not exceed $30 million.¹

2.3 Socially and Economically Disadvantaged Individual

Means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who meets one or more of the following conditions:

- Any individual determined to be a socially and economically disadvantaged individual on a case-by-case basis;
- Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:
  - "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  - "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - Women;
  - Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

2.4 Personal Net Worth

Means the net value of the assets of an individual remaining after total liabilities are deducted.

¹ The following types of businesses have size standards that differ from the standard set forth above:
- Banks and financial institutions: $275 million in assets
- Car rental companies: $40 million average annual gross receipts over the firm’s three previous fiscal years.
- Pay telephones: 1,500 employees.
An individual’s personal net worth does not include:

1) The individual’s ownership interest in an applicant or participating ACDBE firm, or;
2) The individual’s equity in his or her primary place of residence.

An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse.

The imposition of a personal net worth cap of $750,000 means that regardless of race, gender or size of their business, any individual whose personal net worth exceeds $750,000 is not considered economically disadvantaged and is not eligible for the ACDBE Program.

2.5 NON-DISCRIMINATION

As a recipient of DOT financial assistance, the City will meet the non-discrimination requirements provided in Part 26, §26.7, with respect to the award and performance of any concession agreement, management contract or subcontract, purchase or lease agreement, or other agreement covered by part 23.

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any concession agreement, management contract or other agreement covered by 49 CFR Part 23 on the basis of race, color, sex or national origin.

In administering its ACDBE Program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or impairing accomplishment of the objectives of the ACDBE Program with respect to individuals of a particular race, color, sex or national origin.

The City acknowledges these representations are also in accordance with obligations contained in its Civil Rights, ACDBE and ACDBE Airport grant assurances.

2.6 QUOTAS

The City will not use quotas in any way in the administration of its ACDBE Program.

2.7 ACDBE LIAISON OFFICER (ACDBELO)

The City has designated the following individual as its ACDBE Liaison Officer:

Nina S. Grayson  
Director, Office of Equality Assurance  
City of San José  
200 East Santa Clara Street, 5th Floor  
San José, CA  95113

Telephone: 408.535.8455  
Fax: 408.292.6270  
E-Mail: nina.grayson@sanjoseca.gov

In this capacity, the Director is responsible for implementing all aspects of the ACDBE Program and ensuring that the City complies with all provisions of 49 CFR Part 23.
The ACDBELO is responsible for developing, implementing and monitoring the ACDBE Program in coordination with other appropriate officials. Duties and responsibilities include the following:

- Gathers and reports statistical data and other information as required by FAA or DOT.
- Reviews third party contracts and purchase requisitions for compliance with this program.
- Works with all departments to set overall annual goals.
- Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
- Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
- Analyzes the City’s progress toward attainment and identifies ways to improve progress.
- Participates in pre-bid meetings.
- Advises the CEO/governing body on ACDBE matters and achievement.
- Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the OSDBU-Minority Resource Center (MRC).
- Plans and participates in ACDBE training seminars.
- Acts as liaison to the Uniform Certification Process in the State of California.
- Provides outreach to ACDBEs and community organizations to advise them of opportunities.

2.8 DIRECTORY

The directory identifying all firms eligible to participate as ACDBEs is available at www.dot.ca.gov or by contacting the California Department of Transportation/Unified Certification Program at 1-916-324-0780.

2.9 REQUIRED CONTRACT CLAUSES

Contract Assurance:

The City will ensure that the following paragraphs are placed in every Airport Concession contract and subcontract:

- This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

- The Concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.
2.10 REPORTING, COMPLIANCE AND ENFORCEMENT PROCEDURES

The City will retain sufficient basic information about its ACDBE Program implementation, ACDBE certification, and the award and performance of agreements and contracts to enable the FAA to determine our compliance with Part 23. This data will be retained for a minimum of three years following the end of the concession agreement or other covered contract.

It is the Concessionaire’s or contractor’s responsibility to maintain records and documents for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement is also extended to any certified ACDBE.

Beginning March 1, 2006 we will submit to the FAA Regional Civil Rights Office, an annual ACDBE participation report on the form in Appendix A of Part 23.

Confidentiality: The City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal law and the California Public Records Act, Government Code §§6250-6276.48. The California Public Records Act provides for disclosure of public documents when a request is made unless they fall within specified exceptions. There are numerous exceptions which may or may not apply depending on the type of documents.

Except as otherwise required pursuant to federal, state or local law, we will not release personal financial information submitted by an ACDBE in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

The City will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

At the Norman Y. Mineta San José International Airport, the Airport Property Section monitors ACDBE sales. ACDBE sales are tracked as a percentage of overall concession revenue. The Airport maintains these statistics and graphs the results on a monthly basis to ensure that work committed to ACDBEs at contract award is actually performed by the ACDBEs.

On a daily basis, Airport staff monitors the ongoing operation of the concession related contracts consistent with the requirements of Part 23 and this Program. The City may impose such contract remedies as are available under the contract and under federal, state and local law and regulations for non-compliance. Failure to carry out the City’s ACDBE Policy and obligations set forth above shall constitute a breach of contract that may result in termination of the Concession Agreement, or such other remedy as deemed appropriate by the City.

The following monitoring and enforcement provisions are included in the City’s concession agreements and management contracts:

2.10.1 Compliance: Failure to carry out the ACDBE Policy and obligations set forth above shall constitute a breach of contract that may result in termination of the Agreement, or such other remedy as deemed appropriate by the City.

2.10.2 Audits: The City may also perform interim audits of contract payments to ACDBE management firms or subcontractors. The audit will review payments to ACDBE subcontractors and gross receipts earned by or payments for goods and services and management agreements to ACDBEs.
to ensure that the actual amount equals or exceeds the dollar amounts stated in the report of proposed ACDBE participation.

2.10.3 Replacement/Substitutions of ACDBEs: For concession contracts that include concession-specific ACDBE goals, Concessionaire will be required to have a valid arrangement with the ACDBE(s) designated by Concessionaire to fulfill the contract goal. For any such concession contracts that include concession-specific ACDBE goals, Concessionaire will be allowed to substitute the originally designated ACDBE(s) only if it is demonstrated to the City that the ACDBE(s) is unwilling or unable to perform. For any such concession contracts that include concession-specific ACDBE goals, Concessionaire’s ability to negotiate a more advantageous contract with another ACDBE firm will not be considered a valid basis for substitution. For any such concession contracts that include concession-specific ACDBE goals, if an ACDBE is unwilling or unable to perform, Concessionaire shall inform the City in writing and include documentation to justify the substitution, including a statement from the ACDBE to be replaced acknowledging the substitution. In any such instance, Concessionaire will identify a replacement ACDBE or document good faith efforts to replace the ACDBE with another ACDBE. For any such concession contracts that include concession-specific ACDBE goals, if Concessionaire or a non-ACDBE firm performs the work originally committed to an ACDBE, the Concessionaire shall submit a revised ACDBE plan to the City detailing how the ACDBE goal will be met or will supply documentation detailing good faith efforts which have been made to meet the goal.

2.10.4 ACDBE Reports: Concessionaire shall submit, in the format required by the City, a monthly report of ACDBE utilization. The City reviews the monthly reports that are required to be submitted to the City by concessionaires to ensure that the ACDBE participation levels remain in compliance with any contract requirements and to verify that the work committed to ACDBEs is actually performed by ACDBEs. This information will also be used to provide the statistical data for the achievement reports to the FAA. If the City determines that any concessionaire is not complying with any contract requirements regarding this Program, the City will implement the contract remedies specified above.

2.10.5 Notices to DOT: The City will also notify the U.S. Department of Transportation of any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR Section 26.107.

2.11 CONTRACT GOALS

The City will use concession specific goals to meet any portion of the overall goals the City does not project being able to meet using race-neutral means. Concession specific goals are established so that, over the period to which the overall goals apply, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

2.12 GOOD FAITH EFFORTS

To be eligible to be awarded a concession that has a concession specific goal; competitors must make good faith efforts to meet the goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so. (23.25(e)(1)(iv)). Examples of good faith efforts are found in Appendix A to 49 CFR Part 26. The procedures applicable to 49 CFR Part 26.51-3, regarding contract goals apply to the City’s concession specific goals. Specifically;

Attachment F, Exemplar 749774 (3)
2.12.1 Demonstration of good faith efforts (26.53(a) & (c))

The Airport Managers are responsible for determining whether a concessionaire who has not met the concession specific goal has documented sufficient good faith efforts to be regarded as responsive.

We will ensure that all information is complete and accurate and adequately documents the concessionaire’s good faith efforts before we commit to the concession agreement with the bidder/offeror.

2.12.2 Information to be submitted (26.53(b))

For concessions that have a concession specific goal, the City treats concessionaire’s compliance with good faith efforts’ requirements as a matter of responsiveness.

Each solicitation for which a concession specific goal has been established will require the concessionaires to submit the following information:

1. The names and addresses of ACDBE firms or ACDBE suppliers of goods and services that will participate in the concession;
2. A description of the work that each ACDBE will perform;
3. The dollar amount of the participation of each ACDBE firm/supplier participating;
4. Written and signed documentation of commitment to use an ACDBE whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire’s commitment and
6. If the contract goal is not met, evidence of good faith efforts.

2.12.3 Administrative reconsideration (26.53(d))

Within three (3) days of being informed by the City that it is not responsible because it has not documented sufficient good faith efforts, a proposer may request administrative reconsideration. Contractor should make this request in writing to the City Manager, 200 East Santa Clara Street, San José, California 95113. The reconsideration official will not have played any role in the original determination that the proposer did not document sufficient good faith efforts.

As part of this reconsideration, the proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The proposer will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the proposer a written decision on reconsideration, explaining the basis for finding that the proposer did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the DOT.

For concessions that have a concession specific goal, any business that fails to demonstrate that it achieved the concession-specific ACDBE participation goal and fails to demonstrate that it made sufficient good faith efforts to do so shall be deemed “non-responsive” and, therefore, shall be ineligible for award of the concession contract.
2.13 Good Faith Efforts when an ACDBE is replaced on a concession (26.53(f))

For concessions that have a concession specific goal, the City will require a concessionaire to make good faith efforts to replace an ACDBE that is terminated or has otherwise failed to complete its concession agreement, lease, or subcontract with another certified ACDBE, to the extent needed to meet the concession specific goal. We will require the concessionaire to notify the ACDBE Liaison officer immediately of the ACDBEs inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the concessionaire to obtain our prior approval of the substitute ACDBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.

If the concessionaire fails or refuses to comply in the time specified, our contracting office will give notice and opportunity to cure until satisfactory action has been taken. If the concessionaire still fails to comply, the contracting officer may issue a termination for default proceeding.

When a concession specific goal is established pursuant to the City’s ACDBE Program, the following specification will be used to notify concession firms of the requirements to make good faith efforts:

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this concession. It is the policy of the City of San José to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal/bid specification. These requirements apply to all concessions firms and suppliers, including those who qualify as an ACDBE. An ACDBE concession specific goal of 0 percent (0%) of annual gross receipts; value of leases and/or purchases of goods and services has been established for this concession. The concession firm shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 to meet the concession specific goal for ACDBE participation in the performance of this concession.

The concession firm will be required to submit the following information: (1) the names and addresses of ACDBE firms and suppliers that will participate in the concession, (2) A description of the work that each ACDBE will perform; (3) The dollar amount of the participation of each ACDBE firm participating; (4) Written and signed documentation of commitment to use a ACDBE whose participation it submits to meet a contract goal; (5) Written and signed confirmation from the ACDBE that it is participating in the concession as provided in the prime concessionaire’s commitment, and (6) If the contract goal is not met, evidence of good faith efforts.

2.14 COUNTING ACDBE PARTICIPATION FOR CAR RENTALS

The City will count ACDBE participation toward overall and contract goals for car rentals as provided in 49 CFR Part 23.5e.

2.15 COUNTING ACDBE PARTICIPATION FOR CONCESSIONS OTHER THAN CAR RENTALS

The City will count ACDBE participation toward overall and contract goals for concessions other than car rentals as provided in 49 CFR Part 23.55.
2.16 ACDBE CERTIFICATION

The City will use the procedures and standards of 49 CFR Part 26, except as provided in 49 CFR Section 23.31, for certification of ACDBEs to participate in our concessions program and such standards are incorporated herein.

For information about the certification process or to apply for certification firms should contact:

**California Department of Transportation**

Civil Rights – MS 79  
1823 14th Street  
Sacramento, CA 95814  
Phone: 916-324-0790  
Fax: 916-324-1862  
Website: <www.dot.ca.gov>

The City is a member of the California UCP, which has established four Regional DBE Certification Clusters throughout the State to effectively facilitate statewide DBE certification activities. Completed certification packets are to be mailed to one of the agencies serving the county where the firm has its principal place of business.

The California UCP will not process a new application for DBE certification from a firm having its principal place of business in another state, unless the firm has already been certified in that state.

Certification decisions for ACDBEs to participate in the City’s concession program are made by the California Unified Certification Program (CUCP).

All firms certified by the CUCP on behalf of the City and included in the CUCP directory will be reviewed and recertified by the CUCP based on the submittal of the information required for certification to determine their ACDBE eligibility. These reviews will be completed as soon as possible, but not later than April 21, 2006 or three years from the anniversary date of each firm’s most recent certification, whichever is later. The City will insure that only firms certified as eligible ACDBEs participate as ACDBEs in its concession program.

All owners of all certified ACDBEs will be required to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 26.83(i), including any change in their circumstances affecting their ability to meet size, disadvantaged status, personal net worth, ownership or control criteria or of any material changes in the information provided with the application for certification. A copy of the renewal serves as the City’s and CUCP’s no change affidavit.

The California UCP handles all decertification decisions on behalf of the City with respect to the Airport’s concession program.

We will treat a firm as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm’s previous three fiscal years do not exceed $30 million. The size standard for banks and other financial institutions is $275 million in assets, for car rental companies it is $40 million, and for pay telephone companies the standard is 1,500 employees. (23.33) The personal net worth standard used in determining eligibility for purposes of part 23 is $750,000 and any person who
has a personal net worth exceeding this amount is not a socially and economically disadvantaged individual, even if a member of a group is otherwise presumed to be disadvantaged. (23.35).

We will presume that a firm that is certified as a DBE under part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, we will ensure that the disadvantaged owners of a DBE certified under part 26 are able to control the firm with respect to its activity in our concessions program. We are not obligated to certify a part 26 DBE as an ACDBE if the firm does not do work relevant to our concessions program. (23.37).

We recognize that the provisions of part 26, Sections 26.83(c) (2-6) do not apply to certifications for purposes of part 23. We will obtain resumes or work histories of the principal owners of the firm and personally interview these individuals. We will analyze the ownership of stock of the firm, if it is a corporation. We will analyze the bonding and financial capacity of the firm. We will determine the work history of the firm, including any concession contracts or other contracts it may have received. We will compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive. We will obtain a statement from the firm of the types of concessions it prefers to operate or the type of other contracts it prefers to perform. We will ensure that the ACDBE firm meets the applicable size standard. (23.39(a)(b)).

We acknowledge that a prime contractor includes a firm holding a prime contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient. We recognize that the eligibility of Alaska Native Corporations (ANC) owned firms for purposes of part 23 is governed by part 26 Section 26.73(h). (23.39(c)(d)).

We will use the certification standards of part 23 to determine the ACDBE eligibility of firms that provide goods and services to concessionaires. (23.39(i)).

In instances when the eligibility of a concessionaire is removed after the concessionaire has entered into a concession agreement because the firm exceeded the size standard or the owner has exceeded the PNW standard, and the firm in all other respects remains an eligible DBE, we may continue to count the concessionaire’s participation toward ACDBE goals during the remainder of the current concession agreement. We will not count the concessionaire’s participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification. (23.39(e)). Attachment 7 to the ACDBE Program recites the Part 26.87 procedures for removal of an ACDBE’s eligibility.

We will use the Uniform Application Form found in appendix F to part 26 with additional instruction as stated in 23.39(g). A copy of this form is included as Attachment 6 of the ACDBE Program.
EXHIBIT I

HAZARDOUS MATERIALS

In addition to complying with the provisions set forth earlier in this Agreement, Contractor agrees to the following provisions:

1. **Notification of Release.** Contractor shall be solely and fully responsible for notifying the appropriate public agencies of any Hazardous Material release which is caused by or results from the activities of Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees on the Airport. Contractor shall immediately notify City of any Hazardous Material release which occurs on the Airport and is caused by or results from the activities of Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees, regardless of whether the release is in a quantity that would otherwise be reportable to a public agency.

2. **Liability.** Contractor shall be solely and fully responsible and liable for:

   (a) any use of Hazardous Materials on the Airport, by Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees;
   (b) any Hazardous Material Release which is caused by or results from the activities of Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees on the Airport;

3. **Prevention of Release.** Contractor shall take all necessary precautions to prevent its activities from causing any Hazardous Material release to occur on the Airport, including, but not limited to any release into soil, groundwater, or the City’s sewage or storm drainage system.

4. **Obligation to Investigate and Remediate.** Contractor, at Contractor’s sole cost and expense, shall promptly investigate and remediate, in accordance with requirements of all applicable Environmental Laws any release or danger of release of Hazardous Material on the Airport, including, but not limited to, into soil or groundwater, or the City’s sewage or storm drainage system, which, was caused, or results, in whole or in part from the activities of Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees;

In addition to all other rights and remedies of City hereunder, if Contractor does not promptly commence, and diligently pursue to remediate, any such release, or danger of release, of Hazardous Materials, City, in its discretion, may pay, to have same remediated and Contractor shall reimburse City within fifteen (15) business days of City’s demand for payment. The failure to commence remediation and provide City with a schedule for diligent completion of the remediation within thirty (30) days after discovery of such release, or danger of release, of Hazardous Material shall constitute prima facie evidence of failure to promptly commence remediation. The demand for payment by City shall be prima facie evidence that the expense incurred was necessary and reasonable and that such expense was incurred by City on behalf of Contractor.

5. **Indemnification.** Contractor shall defend, indemnify and hold City harmless from and against all loss, damage, liability (including all foreseeable and unforeseeable consequential damages) and
expense (including, without limitation, the cost of any required cleanup and remediation of the Hazardous Materials) which City may sustain as a result of:

(a) any use of Hazardous Materials on the Airport, by Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees

(b) any Hazardous Material release on the Airport, including, but not limited to any release into soil or groundwater, or the City’s sewage or storm drainage system, which is caused by or results from the activities of Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees.

6. **Release of Claims Against City.** Contractor releases, acquits and forever discharges City from any and all claims, actions, causes of action, demands, rights, damages, costs, including but not limited to loss of use, lost profits, or expenses, which Contractor may now have, or which may hereafter accrue on account of or in any way growing out of all known and unknown, foreseen and unforeseen bodily and personal injuries and property damage, and the consequences thereof resulting or arising out of the presence or cleanup of any Hazardous Material on the Airport. This release shall not apply to any claims for contribution that Contractor may have against City in the event that Contractor incurs any cost in undertaking any cleanup of Hazardous Material from the Airport ordered by a governmental agency, to the extent that the cleanup order and costs result from a release of Hazardous Material for which Contractor is not responsible and liable under this Agreement. Contractor understands and agrees that Contractor is hereby waiving all such rights under Section 1542 of the Civil Code of California and any similar law of any state or territory of the United States. Said Section reads as follows:

“1542. Certain claims not affected by general release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

7. (a) **Cessation of Activities.** Contractor shall cease its activities on the Airport, to the extent requested by City, if City determines, in its sole discretion, that such cessation is necessary to investigate, cure or remediate any release of Hazardous Materials. Contractor shall not recommence its activities on the Airport, until notified by City that such release or danger of release of Hazardous Material has been investigated, cured and remediated in a manner satisfactory to the City.

(b) **Abatement of Fees and Charges on Airport.** Contractor shall not be charged fees or charges for use of the Airport, to the extent that City requests Contractor to cease activities on that portion of the Airport due to City’s efforts to investigate, cure or remediate contamination, unless the release is one for which Contractor is responsible under this Agreement.

8. **Records and Inspections.**

(a) Contractor shall maintain, during the term of this Agreement and for a period of not less than four (4) years after the expiration or termination of this Agreement, or for any longer period of time required by any applicable law, regulation, policy, order or decree, separate and accurate daily records pertaining to the use, handling and disposal of any Hazardous Material(s) by Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees on or from the Airport.
(b) Upon request by City, Contractor shall furnish City with such daily records, and such other documentation or reports as Director, from time to time, and at any time during the term of this Agreement, may reasonably require pertaining to the use, handling and disposal of any Hazardous Material(s) by Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees on or from the Airport.

(c) After the expiration of four (4) years following the termination of this Agreement, Contractor may destroy the records pertaining to the use, handling and disposal of any Hazardous Material(s) by Contractor, Contractor’s officers, agents, employees, contractors, permittees or invitees on or from the Airport, provided, however, that Contractor shall notify City no later than sixty (60) days prior to any proposed destruction of any of said records and shall upon request by City within thirty days (30) days after such notice is received, deliver copies of said records to City.

9. **No Third Party Beneficiaries.**

Nothing contained in this Exhibit shall be construed as conferring any benefit on any person not a party to this Agreement, nor as creating any right in any person not a party to this Agreement to enforcement of any obligation created under this Agreement.

10. **Survival of Obligations.**

Contractor’s obligations under this Agreement shall survive the expiration or earlier revocation or suspension of this Agreement.
ATTACHMENT G

NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT LIVING WAGE, WORKER RETENTION, LABOR PEACE AND EMPLOYEE WORK ENVIRONMENT INFORMATION

Pursuant to the Norman Y. Mineta San Jose International Airport Living Wage Ordinance, Contractor and any Subcontractor that provides goods or services at the Airport shall be obligated to pay not less than living wage in accordance with the requirements of this document and the Airport Living Wage Determination as indicated in Exhibit 1 to this ATTACHMENT. A copy of the Airport Living Wage Ordinance is attached as Exhibit 2 to this ATTACHMENT.

This Attachment provides a summary of the primary provisions of the Airport Living Wage Ordinance; however, for more complete information on the applicable terms, Proposers should review the Ordinance. At all times, the Airport Living Wage Ordinance, as it may be amended from time to time, shall control.

AIRPORT LIVING WAGE ORDINANCE PROVISIONS

The following provisions are applicable to the services being procured:

1. A minimum level of compensation for workers employed by contractors and subcontractors who are awarded certain City of San Jose service and labor contracts;

2. Retention of employees when certain new contractors take over a continuing City service;

3. Employee Work Environment and Labor Peace Assurance

Payment of Minimum Compensation

Except as otherwise provided, all Airport Businesses shall provide to their Covered Employees the following Minimum Compensation:

a. If Minimum Health Insurance Benefits are provided, Compensation of no less than Twelve Dollars and Ninety-Four Cents ($12.94) per hour.

b. If Minimum Health Insurance Benefits are not provided, Compensation of no less than Fourteen Dollars and Nineteen Cents ($14.19) per hour.

“Compensation” shall mean the sum of the hourly wage, an employer’s direct hourly contribution for a Covered Employee’s health and medical care insurance, if any, and an employer’s direct hourly contribution for a Covered Employee’s

Attachment G, Summary of Primary Provisions of Airport Living Wage Worker Retention, Labor Peace and Work Employee Environment
retirement benefits, if any. In the event that a Covered Employee is offered and voluntarily declines a direct hourly contribution for health and medical care insurance and/or retirement benefits, Compensation shall also include the value of any such direct hourly contribution offered to and declined by the Covered Employee.

Minimum Compensation will be reviewed annually to determine if any adjustment should be made based on any change as of December 31st of the previous year in the Consumer Price Index (CPI). If the CPI has not increased or if the CPI has declined, the Minimum Compensation shall remain unchanged.

Any Minimum Compensation adjustment shall be effective July 1st of each year.

The minimum compensation requirements shall not apply to any Airport Business during the term of any collective bargaining agreement that expressly provides that the terms of the collective bargaining agreement shall supersede the minimum compensation requirements.

**Living Wage Covered Employee:** Covered Employee shall mean any person employed by an Airport Business who:

1. Is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation;
2. Expends at least half of his or her time working for the Airport Business on work at the Airport;
3. Is at least eighteen (18) years of age; and
4. Is not a student intern of a participant in a job training and education program that has as its express purpose the provision of basic skills and education with the goal of enabling advancement to permanent employment.

**Record Keeping and Reporting**

Each Airport Business that is subject to the Minimum Compensation requirements shall maintain for each employee performing work at the Airport a true and accurate record of the employee’s name, address, job classification, hours worked, pay rate and health benefits received, and shall preserve such records for at least three (3) years.

Each Airport Business shall submit a copy of the records or documents required to be kept to the City for the previous calendar year by January 31st of each year. Failure to provide a copy of such records or documents by February 5th of each year will result in a late fine of One Hundred Dollars ($100.00) per day.

**Audits**
The Director of the Office of Equality Assurance shall audit the records of each Airport Business to verify compliance no less frequently than once in any two-year period.

**Notice of Violation**

If the Director of the Office of Equality Assurance determines that an Airport Business has violated the minimum compensation requirements and only if the Airport Business has not violated the minimum compensation requirements at any time within the immediately preceding three-year period, the Director shall issue a written notice to the Airport Business that the violation is to be corrected within thirty (30) days.

**Administrative Citation**

In the event that an Airport Business has not demonstrated to the Director within thirty (30) days from a Notice of Violation that it has corrected the violation, the Director shall have the authority to issue an administrative citation to any person responsible for the violation.

**Fine and Restitution Amount**

For violations of the minimum compensation requirements, the fine amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid for each Covered Employee paid less than the required minimum compensation wage rate. The restitution amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid.

For violations of the employee retention requirements, the fine amount shall be equal to three (3) times the amount of wages unpaid for the period that the Retention Employee should have been but was not employed, but not to exceed One Hundred Dollars ($100.00) for each calendar day for each Retention Employee not employed. The restitution amount shall be equal to the amount of wages unpaid for the period that the employee should have been but was not employed.

**EMPLOYEE RETENTION REQUIREMENTS**

One of the provisions of the Airport Living Wage Ordinance is a requirement that on certain Airport agreements, the new Contractor must retain workers who have been performing the services under the previous contractor. Employee retention is applicable to the Contractor and all Subcontractors that provide goods or services at the Airport under the Agreement in two respects: (1) the Contractor will be obligated to adhere to these requirements in hiring; and (2) the Contractor
will also be obligated to cooperate with the City in transitioning to a new contractor at the end of the term of the Agreement.

The following provisions are applicable to this RFP and will become a part of the Agreement:

**Retention Employee Defined:** Retention Employee means any person employed by the predecessor contractor or any subcontractor to the predecessor contractor that provides goods or services at the Airport who meets the following requirements:

1. Performs work on the Airport Contract;
2. Is not an exempt employee under the Fair Labor Standards Act;
3. Has been employed by the Predecessor Employer for at least the six (6) month period prior to the date of the new contract with the Successor Employer;
4. Has not been convicted of a crime that is related to his or her employment at the Airport or to his or her job performance at the Airport; and
5. Has not been demonstrated to the City to present a significant danger to Airport users or employees, co-workers or City staff.

**Eligible Retention Employee Defined:** Eligible Retention Employee means a current employee of the new Contractor who meeting the following requirements:

1. The person has been employed by the Contractor for at least six (6) months prior to the date of the new service or labor agreement;
2. The person would otherwise need to be terminated as a result of the implementation of the Airport Living Wage Ordinance; and
3. The Contractor chooses to designate the person as an Eligible Retention employee.

The Contractor must establish requirements 1. and 2. above by submitting payroll records or other reliable evidence satisfactory to the City of San Jose’s Director of the Office of Equality Assurance. If the Contractor cannot submit such evidence, the employee cannot be designated an Eligible Retention Employee.

**Employment of Qualified Retention Employees**

The new Contractor shall offer continued employment to all Retention Employees who are interested in such continued employment.

The City of San Jose’s Office of Equality Assurance will provide the new Contractor with information regarding which employees of the predecessor contractor are Retention Employees to the extent that such information is available to the City of San Jose.
In the event the new Contractor does not have enough positions available to hire all Retention Employees desiring continued employment and to retain its Eligible Retention Employees, the new Contractor shall hire Retention Employees and retain Eligible Retention Employees by seniority within each employment classification. For any positions that become available during the initial ninety (90) day period of the Agreement, the Contractor shall hire Retention Employees and rehire its Eligible Retention Employees by seniority within each employment classification.

Retention Requirements

Retention Employees hired by the new Contractor may not be discharged without cause during the initial ninety (90) day period of their employment.

The new Contractor shall offer continued employment to each Retention Employee who received a satisfactory performance evaluation at the end of the initial ninety (90) day period of employment. Such employment shall be offered under the same terms and conditions established by the new Contractor for all of its employees.

EMPLOYEE WORK ENVIRONMENT EVALUATION AND LABOR PEACE ASSURANCE

An Employee Work Environment Evaluation looks into a proposer’s history as an employer and work condition commitments. Additionally, the City has determined that labor peace is essential to the proprietary interests of the City to ensure that contractors conducting business on City property are good employers, provide a good work environment without encroaching on the contractor’s ability to conduct business and comply with federal, state and City employment policies.

Proposers are required to complete the Employee Work Environment and Labor Peace Questionnaire (Questionnaire) (ATTACHMENT G, Exhibit 3) and attach any documents to show how it will prevent labor disputes or unrest from occurring during the term of the City Agreement. If the Questionnaire is incomplete or inadvertently omitted from your proposal, it will not result in immediate disqualification of your proposal. However, failure to submit these forms with your proposal or incomplete submittals may result in a lower overall score.

As explained in the Questionnaire, Proposers are free to submit any plan or program that demonstrates a good work environment and prevents disruption in services due to disputes with its employees. The following examples are provided solely for purpose of example. They are not intended to limit a
Proposer in any way from submitting any plan or program that assures labor peace.

1. Any existing or proposed plans, benefits or programs undertaken by the employer to attract and retain qualified employees and assist in providing uninterrupted service through the employer’s workplace condition and practices (Example: Company’s Employee Handbook);
2. A written dispute resolution policy or procedure (Example: Company’s Employee Handbook);
3. A written grievance policy or procedure (Example: Company’s Employee Handbook);
4. The formation of a joint labor-management committee – A committee comprised of employees from both labor and management to discuss issues of mutual concern;
5. A collective bargaining agreement between a firm and a recognized union;
6. Labor neutrality provisions – A labor neutrality provision means the proposer, as employer, will accept a union’s campaign to convince the employer’s employees about the merits of unionization and also refrain from offering arguments against unionization;
7. “Card Check” provision – A “card check” provision means the proposer/employer would agree to allow representatives from a labor union to come on company property during work hours for the purposes of organizing its workforce and collecting union authorization cards. The proposer/employer pledges to recognize the union if a certain number of signed union authorization cards are collected. This type of provision is typically coupled with a Labor Neutrality provision.
8. Any other information, plan or program regarding how the proposer will protect against disruptions in service due to disputes with its employees during the Term and any Option period of the Agreement.
SCOPE: Airport Parking Operations and Management Services

ISSUANCE
DATE: March 1, 2011

Contracts governed by San Jose Municipal Code Chapter 25.11 - Airport Living Wage and Labor Standards - require Airport Businesses to provide their covered employees the following minimum compensation rates:

1. If minimum health insurance benefits are provided, compensation of no less than Twelve Dollars and Ninety-Four Cents ($12.94) per hour.

2. If minimum health insurance benefits are not provided, compensation of no less than Fourteen Dollars and Nineteen Cents ($14.19) per hour.

Effective July 1, 2011, all Airport Businesses will be required to provide their covered employees the following minimum compensation rates:

1. If minimum health insurance benefits are provided, compensation of no less than Thirteen Dollars and Twelve Cents ($13.12) per hour.

2. If minimum health insurance benefits are not provided, compensation of no less than Fourteen Dollars and Thirty-Seven Cents ($14.37) per hour.

The minimum compensation required to be paid to covered employees is the sum of the hourly wage, the employer’s direct hourly contribution for the covered employee’s health and medical care insurance (if any), and the employer’s direct hourly contribution for the covered employee’s retirement benefits (if any). For the lower rate to apply, the employer must either (a) offer the covered employee an employer-sponsored health insurance plan for which the employer pays at least 50% of the cost, or (b) pay at least 50% of the cost of the covered employee’s health plan.

The minimum compensation rates will be reviewed annually to determine if any adjustment should be made based on any change as of December 31st of the previous year in the CPI-U for San Francisco-Oakland-San Jose. If the CPI has not increased or if the CPI has declined, the minimum compensation rate shall remain unchanged.

Any minimum compensation rate adjustments shall be effective July 1st of each year.
**Hours and Days of Work**  
(Industrial Welfare Commission Order No. 16-2001)

Employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) on the seventh (7th) consecutive day of work in a workweek.
Chapter 25.11
AIRPORT LIVING WAGE AND LABOR STANDARDS

Parts:

1 Purpose and Scope
3 Definitions
5 Minimum Compensation
7 Employee Retention
9 Employee Work Environment
11 Labor Peace Assurance
12 Airport Training Standards Program
13 Retaliation and Discrimination Prohibited
15 Administration
17 Administrative Enforcement
19 Civil Enforcement and Contract Remedies
21 Effective Date

Part 1
PURPOSE AND SCOPE

Sections:

25.11.100 Purpose and scope.
25.11.110 Exemptions.

25.11.100 Purpose and scope.

A. The establishment of living wage and worker retention requirements at the airport serves to protect the public health, safety and welfare by requiring the payment of wages sufficient to allow workers to leave or avoid poverty and to decrease worker turnover and instability in the workplace. The consequential benefits of such measures are the improvement of the quality of service to the city, the traveling public and other airport users, and reduction in dependence on taxpayer funded social services. Retaining experienced and well-trained employees is essential for maintaining airport safety and security, which is critical for the airport's successful operation. The city has also expended and continues to invest significant resources in operating, maintaining, and more recently, rebuilding and modernizing the airport, which benefits the businesses operating at the airport. The benefits received by airport businesses from the city's investment should reasonably be shared with their employees through payment of a living wage.

B. The work environment review and labor peace assurances promote the city's interests in maintaining
continuous operation of the airport. The city as proprietor of the airport depends upon the revenue it receives from business operations located at the airport and any interruption in service at the airport would result in adverse effects on services available to the public and substantial lost revenue for the airport. The airport is particularly vulnerable to significant adverse impacts and revenue loss due to the presence of many different employers whose operations are interrelated and interdependent, increasing the likelihood that a service disruption directly involving one (1) employer could impact other operations at the airport. It is essential for the financial viability of the airport that services be provided and business operations conducted without interruption.

(Ord. 28432.)

25.11.110 Exemptions.

The requirements of this chapter shall not apply where and to the extent that state or federal law or regulations preclude or limit their applicability.

(Ord. 28432.)

Part 3
DEFINITIONS

Sections:

25.11.300 Definitions.
25.11.310 Airport business.
25.11.320 Airport contract.
25.11.330 City manager.
25.11.335 Compensation.
25.11.340 Construction contractor.
25.11.350 Contractor.
25.11.360 Covered employee.
25.11.370 CPI.
25.11.380 Director.
25.11.390 Effective date.
25.11.400 Minimum health insurance benefits.
25.11.410 Living wage policy.
25.11.420 Predecessor employer.
25.11.430 Prevailing wage policy.
25.11.440 Retention employee.
25.11.450 Subcontractor.

25.11.460 Successor employer.

25.11.300 Definitions.

The definitions set forth in this part shall govern the application and interpretation of this chapter. The definitions set forth in Part 3 of Chapter 25.01 of this title shall govern the application and interpretation of the following terms as used in this chapter: "advertising concessions," "airport," "car rental agencies," "certificated air carriers," "commercial activity," "fixed based operators," "food and beverage concessions," "ground transportation management services," "ground transportation provider," "janitorial, custodial and facility maintenance services," "parking lot management," "retail concessions," and "shuttle transportation."

(Ord. 28432.)

25.11.310 Airport business.

"Airport business" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity conducting commercial activity at the airport pursuant to an airport contract or a permit issued by the city under Title 25, and their subcontractors conducting commercial activity at the airport. "Airport business" shall not include ground transportation providers, construction contractors, the United States federal Aviation Administration (FAA), the United States Transportation Security Administration (TSA), or any other federal, state or local public agency.

(Ord. 28432.)

25.11.320 Airport contract.

"Airport contract" shall mean a lease, license, operating agreement, concession agreement or other contract with the city for the conduct of commercial activity at the airport.

(Ord. 28432.)

25.11.330 City manager.

"City manager" shall mean the city manager or the city manager's designee.

(Ord. 28432.)

25.11.335 Compensation.

"Compensation" shall mean the sum of the hourly wage, an employer's direct hourly contribution for a covered employee's health and medical care insurance, if any, and an employer's direct hourly contribution for a covered employee's retirement benefits, if any. In the event that a covered employee is offered and voluntarily declines a direct hourly contribution for health and medical care insurance and/or retirement benefits, "compensation" shall also include the value of any such direct hourly contribution offered to and declined by the covered employee.

(Ord. 28862.)

25.11.340 Construction contractor.

"Construction contractor" shall mean a construction contractor licensed by the California Contractors State License Board.
25.11.350 Contractor.

"Contractor" shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity conducting commercial activity at the airport pursuant to an airport contract. "Contractor" shall include but not be limited to certificated air carriers, and car rental agencies. "Contractor" shall not include ground transportation providers, construction contractors, the United States Federal Aviation Administration (FAA), the United States Transportation Security Administration (TSA), or any other federal, state or local public agency.

(Ord. 28432.)

25.11.360 Covered employee.

"Covered employee" shall mean any person employed by an airport business who:

A. Is not a person who provides volunteer services that are uncompensated except for reimbursement of expenses such as meals, parking or transportation;

B. Expends at least half of his or her time working for the airport business on work at the airport;

C. Is at least eighteen years of age; and

D. Is not a student intern or a participant in a job training and education program that has as its express purpose the provision of basic skills and education with the goal of enabling advancement to permanent employment.

(Ord. 28432.)

25.11.370 CPI.

"CPI" shall mean the Consumer Price Index, All Urban Consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics for the San Francisco-Oakland-San José area, with all items included. In the event the CPI is no longer published, the director shall use another index published by either the State of California or a federal department or agency that is charged with the responsibility of measuring the cost of living in the geographical area that includes the City of San José.

(Ord. 28432.)

25.11.380 Director.

"Director" shall mean the director of the city's office of equality assurance or such other director designated by the city manager to administer this chapter.

(Ord. 28432.)

25.11.390 Effective date.

"Effective date" shall mean the effective date of this chapter.

(Ord. 28432.)

25.11.400 Minimum health insurance benefits.
“Minimum health insurance benefits” shall mean either: (a) an employer-sponsored health insurance plan offered to employees for which the employer pays at least fifty percent of the cost; or (b) payment by an employer of at least fifty percent of the cost of an employee’s health insurance plan.

(Ord. 28432.)

25.11.410 Living wage policy.

“Living wage policy” shall mean Resolution No. 68900, adopted by the city council on June 8, 1999, including any subsequent amendments.

(Ord. 28432.)

25.11.420 Predecessor employer.

“Predecessor employer” shall mean the airport business that provided substantially similar services at the airport immediately prior to the successor employer.

(Ord. 28432.)

25.11.430 Prevailing wage policy.

“Prevailing wage policy” shall mean Resolution No. 61144, adopted by the city council on February 7, 1989, including any subsequent amendments.

(Ord. 28432.)

25.11.440 Retention employee.

“Retention employee” shall mean any person employed by a contractor or subcontractor subject to Part 7 of this chapter who:

A. Performs work on the airport contract;

B. Is not an exempt employee under the Fair Labor Standards Act;

C. Has been employed by the predecessor employer for at least the six month period prior to the date of the new contract with the successor employer;

D. Has not been convicted of a crime that is related to his or her employment at the airport or to his or her job performance at the airport; and

E. Has not been demonstrated to the city to present a significant danger to airport users or employees, coworkers, or city staff.

(Ord. 28432.)

25.11.450 Subcontractor.

“Subcontractor” shall mean any person, corporation, partnership, limited liability company, joint venture, sole proprietorship, association, trust or any other entity that provides goods or services at the airport under a contract with a contractor. "Subcontractor" shall not include construction contractors.
25.11.460 Successor employer.

"Successor employer" shall mean the new airport business that succeeds the predecessor employer in the provision of substantially similar services at the airport.

(Ord. 28432.)

Part 5
MINIMUM COMPENSATION

Sections:

25.11.500 Payment of minimum compensation.

25.11.510 Exemptions.

25.11.520 Reserved.

25.11.500 Payment of minimum compensation.

A. Except as otherwise provided in this part, all airport businesses shall provide to their covered employees the following minimum compensation:

1. If minimum health insurance benefits are provided, compensation of no less than twelve dollars and ninety-four cents per hour.

2. If minimum health insurance benefits are not provided, compensation of no less than fourteen dollars and nineteen cents per hour.

B. Minimum compensation will be reviewed annually to determine if any adjustment should be made based on any change as of December 31 of the previous year in the CPI. If the CPI has not increased or if the CPI has declined, the minimum compensation shall remain unchanged.

C. The minimum compensation applicable if minimum health insurance benefits are not provided shall be adjusted to remain one dollar and twenty-five cents greater than the minimum compensation applicable if minimum health insurance benefits are provided.

D. Any minimum compensation adjustments shall be effective July 1 of each year.

E. At least thirty days prior to the adjustment of minimum compensation, the director shall publish the new minimum compensation on the City of San José website.

(Ords. 28432, 28862.)

25.11.510 Exemptions.

A. The minimum compensation requirements of this part shall not apply to any airport business during the term of any collective bargaining agreement that expressly provides that the terms of the collective bargaining agreement shall supersede either the living wage policy or the minimum compensation requirements of this part.

B. Contractors currently operating at the airport pursuant to the terms of an airport contract that is subject to and includes the terms and conditions of the living wage policy and/or prevailing wage policy shall not be subject to the
requirements of this part for the remaining term of the airport contract. Notwithstanding the foregoing, the city manager shall be authorized to enter into an amendment with a contractor to delete the terms and conditions of the living wage policy and/or prevailing wage policy for the remaining term of the airport contract. The requirements of this part shall apply to a contractor that is party to any such airport contract from the effective date of any such amendment.

(Ords. 28432, 28862.)

25.11.520  Reserved.

Editor's note: Ord. 28862, passed December 7, 2010, repealed § 25.11.520, which pertained to temporary exemption for passenger airlines.

Part 7
EMPLOYEE RETENTION

Sections:

25.11.700  Application.

25.11.710  Exemptions.

25.11.720  Notice to employees.

25.11.730  Retention offer.

25.11.740  Retention period.

25.11.700  Application.

Except as otherwise provided in this part, the employee retention requirements under this part shall apply to any airport business that provides services at the airport to either the city or to an airport businesses, including but not limited to:

A.  Food and beverage concessions;
B.  Retail concessions;
C.  Janitorial, custodial and facility maintenance services;
D.  Shuttle transportation;
E.  Parking lot management;
F.  Ground transportation management services;
G.  Security services;
H.  Curb side passenger check-in and baggage check services (sky cap);
I.  Wheelchair escorts;
J.  General aircraft maintenance;
K. Baggage and cargo handling;
L. Aircraft interior cleaning and carpet cleaning services;
M. Washing and cleaning of aircraft or ground support equipment;
N. Aircraft tow-in and push back;
O. Engine oil servicing;
P. Water and lavatory servicing;
Q. Electrical and air power boost servicing;
R. Ground support equipment repair and maintenance;
S. Ground support vehicle fueling;
T. Aircraft into-plane fueling and defueling.

(Ord. 28432.)

25.11.710 Exemptions.

The employee retention requirements of this part shall not apply to employees of the following airport businesses:
A. Certificated air carriers;
B. Car rental agencies;
C. Fixed base operators; and
D. Advertising concessionaires.

(Ord. 28432.)

25.11.720 Notice to employees.

A. No less than sixty days prior to the termination of a predecessor employer’s contract, the predecessor employer shall provide to the office of equality assurance a qualified displaced worker list with the names and contact information for all retention employees.

B. No less than thirty days prior to the termination of a predecessor employer’s contract, all retention employees shall be notified in writing that they have been placed on a qualified displaced worker list and that the successor employer will be required to offer him or her continued employment at the airport. The notification letter shall detail the worker retention process and timeline and include the phone number of and the name of a contact person at the office of equality assurance.

(Ord. 28432.)

25.11.730 Retention offer.

A. Except as otherwise provided in this part, successor employers subject to this part shall offer employment to all retention employees.
B. The successor employer may treat any of its current employees as retention employees for purposes of this part who, based on payroll records or other reliable evidence, can be shown to the satisfaction of the director:

1. To have been employed for at least the six-month period prior to the date of the new contract by the successor employer; and

2. To not be eligible for continued employment by the successor employer other than the airport.

C. In the event that the successor employer does not have enough positions available for all retention employees and its current employees eligible for retention under Subsection B., the successor employer shall hire the retention employees and retain its current employees who are eligible for retention by seniority within each employment classification. For any positions that become available during the initial ninety-day period of the new contract, the successor employer will hire retention employees and rehire its employees who are eligible for retention by seniority within each employment classification.

(Ord. 28432.)

25.11.740 Retention period.

A. A successor employer shall not discharge a retention employee without cause during the initial ninety-day period of his or her employment.

B. A successor employer shall offer continued employment to each retention employee who receives a satisfactory performance evaluation at the end of the initial ninety-day period of employment under terms and conditions established by the successor employer for all its employees.

(Ord. 28432.)

Part 9
EMPLOYEE WORK ENVIRONMENT

Section:

25.11.900 Employee work environment reporting requirement.

25.11.900 Employee work environment reporting requirement.

A. Prior to the effective date of any airport contract or amendment to an airport contract entered into on or after the effective date, the contractor shall provide to the city work environment information for contractor and its subcontractors, including a description of the following:

1. Compensated days off per year, including holidays, sick leave, vacation, and personal leave, offered to employees;

2. Employee health benefits;

3. Compliance with state and federal workplace standards; and

4. Employee complaint procedures.

B. For subcontractors hired after the effective date of the airport contract, the contractor shall provide the city with the work environment information in Subsection A. prior to the effective date of the contract between the contractor and subcontractor.
Part 11
LABOR PEACE ASSURANCE

Section:

25.11.1100 Labor peace assurance.

25.11.1100 Labor peace assurance.

A. Prior to the effective date of any airport contract or amendment to an airport contract entered into on or after the effective date, the contractor shall provide to the city assurances on how the contractor will prevent service disruptions at the airport due to labor disputes. These assurances shall be included in the airport contract.

B. Any airport contract or amendment to an airport contract entered into on or after the effective date shall provide that each contractor shall require that its subcontractors provide it with assurances on how the subcontractor will prevent service disruptions at the airport due to labor disputes.

(Ord. 28432.)

Part 12
AIRPORT TRAINING STANDARDS PROGRAM

Sections:

25.11.1200 Application.

25.11.1210 Development of airport training standards program.

25.11.1200 Application.

The airport training standards program required under this part shall apply to all airport businesses.

(Ord. 28594.)

25.11.1210 Development of airport training standards program.

A. The director of aviation shall develop an airport training standards program for covered employees of all airport businesses and shall promulgate regulations to implement the airport training standards program.

B. The director of aviation shall hold a public hearing and allow public comment on any proposed airport training standards program regulations prior to adoption thereof. The director of aviation shall provide not less than ten days' notice of such public hearing. A copy of such airport training standards program regulations shall be on file in the airport department and the office of equality assurance.

C. It shall be unlawful to disobey or fail to comply with any regulations adopted pursuant to this part.

(Ord. 28594.)

Part 13
RETAIATION AND DISCRIMINATION PROHIBITED
25.11.1300 Prohibition.

An airport business shall not discharge, reduce the compensation of, or discriminate against any employee for making a complaint to the city, participating in any of the city's proceedings related to the enforcement of this chapter, using any civil remedies to enforce his or her rights under this chapter, or otherwise asserting his or her rights under this chapter.

(Ord. 28432.)

Part 15
ADMINISTRATION

Sections:

25.11.1500 Compliance monitoring.

25.11.1510 Regulations.

25.11.1520 Record keeping, reporting and audit.

25.11.1530 Record keeping, reporting and audit.

25.11.1540 Access to work site.

25.11.1500 Compliance monitoring.

The city's office of equality assurance shall monitor compliance with this chapter, including the investigation of claimed violations.

(Ord. 28432.)

25.11.1510 Regulations.

A. Except as otherwise provided in Part 12 of this chapter, the director may promulgate regulations consistent with this chapter.

B. The director shall hold a public hearing and allow public comment on any proposed rule or regulation prior to adoption thereof. The director shall provide not less than ten days' notice of such public hearing. A copy of such administrative rules and regulations shall be on file in the office of equality assurance.

C. It shall be unlawful to disobey or fail to comply with any regulation adopted pursuant to this chapter.

(Ords. 28432, 28594.)

25.11.1520 Report.

The director shall provide a report on compliance with this chapter to the city council annually.

(Ord. 28432.)
25.11.1530  Record keeping, reporting and audit.

A. Each airport business that is subject to the minimum compensation requirements of this chapter shall maintain for each employee performing work at the airport a true and accurate record of the employee's name, address, job classification, hours worked, pay rate and health benefits received, and shall preserve such records for at least three years.

B. Each airport business shall submit a copy of the records or documents required to be kept pursuant to this section to the city for the previous calendar year by January 31 of each year. Failure to provide a copy of such records or documents by February 5 of each year will result in a late fine of one hundred dollars per day.

C. Each airport business shall make all records or documents required to be kept pursuant to this section or regulations promulgated by the director to verify compliance with this chapter, available for audit at no cost to city, at any time during regular business hours, upon written request by the city attorney, city auditor, city manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to city for audit at city hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be available at the airport business's address indicated for receipt of notices in the airport contract or permit.

D. The records or documents required to be kept pursuant to this section or regulations promulgated by the director to verify compliance with this chapter shall be complete and accurate. The provision of false information to the city shall be a violation of this chapter.

(Ords. 28432, 28594, 28862.)

25.11.1540  Access to work site.

Each airport business shall permit access to work sites for authorized city representatives for the purpose of monitoring compliance with this chapter, investigating complaints of noncompliance, and evaluating the operation and effects of this chapter.

(Ord. 28432.)

Part 17
ADMINISTRATIVE ENFORCEMENT

Sections:

25.11.1700  Applicability.
25.11.1710  Complaint to city.
25.11.1712  Audits.
25.11.1715  Notice of violation of minimum compensation requirements and opportunity to correct.
25.11.1720  Administrative citation.
25.11.1730  Fine and restitution amount.
25.11.1740  Payment of the fine and restitution.
25.11.1700 Applicability.

A. This part provides for administrative citations that are in addition to all other legal remedies that may be pursued by the city to address any violations of the minimum compensation requirements of this chapter.

B. Use of this part shall be at the sole discretion of the city.

(Ord. 28432.)

25.11.1710 Complaint to city.

Any person claiming a violation of this chapter may file a complaint with the city. The city may, in its sole discretion, investigate and address any alleged violation of this chapter's requirements. However, the city's failure to investigate an alleged violation or to otherwise enforce any of the provisions of this chapter shall not create any right of action or right to recover damages from the city by any person, including but not limited to an aggrieved employee.

(Ord. 28432.)

25.11.1712 Audits.

The director shall audit the records of each airport business to verify compliance with this chapter no less frequently than once in any two-year period.

(Ord. 28862.)

25.11.1715 Notice of violation of minimum compensation requirements and opportunity to correct.

Where based upon a complaint or otherwise, if the director determines that an airport business has violated the minimum compensation requirements of this chapter, and only if the airport business has not violated the minimum compensation requirements of this chapter at any time within the immediately preceding three-year period, the director shall issue a written notice to the airport business that the violation is to be corrected within thirty days.

(Ord. 28862.)

25.11.1720 Administrative citation.

A. For violations of the minimum compensation requirements of this chapter that are subject to a notice of violation from the director under Section 25.11.1715 above, in the event that an airport business has not demonstrated to the director within thirty days from a notice of violation that it has corrected the violation of this chapter, the director
shall have the authority to issue an administrative citation to any person responsible for the violation.

B. For violations of the minimum compensation requirements of this chapter that are not subject to a notice of violation from the director under Section 25.11.1715 above and for any other violations of this chapter, the director shall have the authority to issue an administrative citation to any person responsible for the violation.

C. Each administrative citation shall contain the following information:

1. The date of the violation;

2. The section of this chapter violated and a description of the violation;

3. The amount of the fine and restitution for the code violation;

4. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

5. An order prohibiting the repeated occurrence of the code violation described in the administrative citation;

6. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and

7. The name and signature of the director.

(Ords. 28432, 28862.)

25.11.1730 Fine and restitution amount.

A. For violations of the minimum compensation requirements imposed pursuant to this chapter, the fine amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid for each covered employee paid less than the required minimum compensation wage rate. The restitution amount shall be equal to the difference between the actual amount of wages paid and the amount of wages that should have been paid.

B. For violations of the employee retention requirements imposed pursuant to this chapter, the fine amount shall be equal to three times the amount of wages unpaid for the period that the retention employee should have been but was not employed, but not to exceed one hundred dollars for each calendar day, or portion thereof, for each retention employee not employed. The restitution amount shall be equal to the amount of wages unpaid for the period that the employee should have been but was not employed.

C. The fine amounts collected under Subsections A. and B., above, shall be used to defray the cost of administration of the requirements of this chapter.

D. For other violations of this chapter, the fine amount shall be one hundred dollars per violation, except as otherwise specified in this chapter.

(Ords. 28432, 28862.)

25.11.1740 Payment of the fine and restitution.

A. Within thirty (30) days from the date of the issuance of the administrative citation, the fine shall be paid to the city and restitution shall be paid to the underpaid employee or employees.

B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section
25.03.470.D if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

C. Payment of a fine or restitution under this chapter shall not excuse or discharge any repeated occurrence of the code violation that is the subject of the administrative citation.

(Ord. 28432.)

25.11.1750 Hearing request.

A. Any recipient of an administrative citation may contest the violation set forth in the administrative citation or that he or she is the responsible party by completing a request for hearing form and returning it to the director within thirty (30) days from the date of the issuance of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 25.11.1760.

B. A request for hearing form may be obtained from the director.

C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.

D. If city staff submits an additional written report concerning the administrative citation for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.

(Ord. 28432.)

25.11.1760 Advance deposit hardship waiver.

A. Any person who intends to request a hearing to contest an administrative citation under this chapter or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 25.11.1750.A may file a request for an advance deposit hardship waiver.

B. The request shall be filed with the director on an advance deposit hardship waiver application form, available from the director, within fifteen (15) days of the date of the administrative citation.

C. The requirement to deposit the full amount of the fine as described in Section 25.11.1750.A shall be stayed unless and until the director makes a determination not to issue the advance deposit hardship waiver.

D. The director may waive the requirement of an advance deposit set forth in Section 25.11.1750.A and issue the advance deposit hardship waiver only if the cited party submits to the director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director the person’s actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.

E. If the director determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the city within ten (10) days of the date of that decision or thirty (30) days from the date of the administrative citation, whichever is later.

F. The director shall issue a written determination listing the reasons for the director’s determination to issue or not issue the advance deposit hardship waiver. The written determination of the director shall be final.

G. The written determination of the director shall be served upon the person who applied for the advance deposit hardship waiver.

(Ord. 28432.)
25.11.1770 Hearing procedure.

A. The city manager shall conduct the administrative citation hearing for violations of this chapter pursuant to this section and any rules and procedures for the conduct of hearings as adopted by the city manager.

B. No hearing to contest an administrative citation before the city manager shall be held unless the fine has been deposited in advance in accordance with Section 25.11.1750.A or an advance deposit hardship waiver has been issued in accordance with Section 25.11.1760.

C. A hearing before the city manager shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

D. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

E. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

F. The administrative citation and any additional report submitted by the director shall constitute prima facie evidence of the respective facts contained in those documents.

G. The city manager may continue the hearing and request additional information from the director or the recipient of the administrative citation prior to issuing a written decision.

(Ord. 28432.)

25.11.1780 Decision of the city manager.

A. After considering all of the testimony and evidence submitted at the hearing, the city manager shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the city manager shall be final.

B. If the city manager determines that the administrative citation should be upheld, then the fine amount on deposit with the city shall be retained by the city.

C. If the city manager determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the city manager shall set forth in the decision a payment schedule for the fine.

D. If the city manager determines that the administrative citation should be upheld, the city manager shall order that restitution be paid to the underpaid employee or employees.

E. If the city manager determines that the administrative citation should be canceled and the fine was deposited with the city, then the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city’s portfolio for the period of time that the fine amount was held by the city.

F. The recipient of the administrative citation shall be served with a copy of the city manager’s written decision.

(Ord. 28432.)

25.11.1790 Late payment charges.

Any person who fails to pay to the city the amount of any fine imposed pursuant to the provisions of this chapter on or before the date that fine amount is due shall be liable for the payment of an additional delinquency penalty.
delinquency penalty is equal to ten (10) percent of the amount of the fine due to the city, or ten (10) percent of the amount of the fine remaining unpaid to the city if a portion of the fine amount was timely paid. Interest shall accrue on all delinquent fine amounts, exclusive of delinquency penalties, at the rate of one half of (0.5) one percent per month, pro rata, of the total delinquent fine amount, from the date the fine amount becomes delinquent until the date that all delinquent fine amounts are paid to the city.

(Ord. 28432.)

25.11.1800 Recovery of administrative citation fines and costs.

A. The city may collect any past due administrative citation fine or late payment charge by use of all available legal means.

B. Any person who fails to pay any past due administrative citation fine or late payment charge shall be liable in any action brought by the city for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees.

C. Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the past due administrative citation fine.

D. Collection costs imposed under this section shall be added to and become a part of the underlying administrative citation fine.

(Ord. 28432.)

25.11.1810 No exhaustion of remedies requirement.

Exhaustion of remedies under this part shall not be a prerequisite to the filing of a civil action pursuant to Section 25.11.1700 of Part 17 of this chapter.

(Ord. 28432.)

Part 19
CIVIL ENFORCEMENT AND CONTRACT REMEDIES

Sections:

25.11.1900 Civil enforcement.

25.11.1910 Contract enforcement.

25.11.1900 Civil enforcement.

A. Any employee aggrieved by a violation of the minimum compensation requirements, the employee retention requirements or the prohibition on retaliation and discrimination of this chapter, or organization of which such employee is a member, may bring a civil action in a court of competent jurisdiction against the airport business violating this chapter and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any back wages and benefits unlawfully withheld and interest thereon, reinstatement in employment and/or injunctive relief, and shall be awarded reasonable attorney's fees and costs. For a willful violation of this chapter, a court may award as a penalty up to treble the amount of monies to be paid as damages.

B. This part shall not be construed to limit an employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights.
25.11.1910 Contract enforcement.

If a violation of any contract provision required by this chapter occurs and is not corrected after written notice, the city may, at its option, do any or all of the following:

A. Terminate the airport contract for default;

B. Withhold payment or compensation, if applicable.

(Ord. 28432.)

Part 21
EFFECTIVE DATE

Section:

25.11.1921 Effective date.

This chapter shall become effective on January 1, 2009.

(Ord. 28432.)

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ATTACHMENT G-3
EMPLOYEE WORK ENVIRONMENT AND LABOR PEACE QUESTIONNAIRE

SECTION I: CONTRACTOR INFORMATION
Contractor Name: ________________________________ Date: ________________________
Address: ________________________________________________
Phone: ________________________________ FAX: ________________________________
Prepared by: ________________________________ Title: ________________________________

SECTION II: EMPLOYEE HEALTH BENEFITS

1. Does your company provide a health insurance plan or program for employees?
   □ NO, we do not provide a health insurance plan or program for employees.
   □ YES, we do provide a health insurance plan or program for employees.

   If the answer is no, does your company provide benefits in lieu of a health insurance plan? (Be specific. Describe on a separate sheet and attach.)

2. If the answer to Question 1 above is yes, please provide the following information:

   2a. Please list the health insurance plan(s) or program(s) offered to your employees (use additional sheets if necessary)

   2b. What is the contribution by the employee per pay period to this plan?

      $________ for single coverage, no dependents
      $________ for family coverage, with dependents

      Pay period is (check one):  □ Weekly  □ Bi-weekly  □ Semi-monthly  □ Monthly

   2c. What is the contribution by the company, per employee, per pay period, to this plan?

      $________ for single coverage, no dependents
      $________ for family coverage, with dependents

   2d. How long must the employee be employed by your company before they are eligible for health insurance coverage?

      _______ Days  □ Month  □ Year  □

   2e. What job classifications of your employees are covered by the insurance program outlined above? (Use additional sheets if necessary.)

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2f. Does your health insurance coverage pertain to part-time and full-time employees?

Yes ☐  No ☐  If no, please explain.

SECTION III: EMPLOYEE BASIC BENEFITS

1. Indicate the basic benefits your workers receive.

<table>
<thead>
<tr>
<th>Years of Service</th>
<th># of Vacation Days</th>
<th># of Sick Days</th>
<th># of Personal Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>After 1 year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After 5 years</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>After 10 years</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Other: (Explain.)

2. Indicate the paid holidays your workers receive by placing check mark to the left of each.

<table>
<thead>
<tr>
<th>Holiday</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New Year's Day</td>
<td>Independence Day</td>
</tr>
<tr>
<td>Martin Luther King Jr. Day</td>
<td>Labor Day</td>
</tr>
<tr>
<td>Washington’s Birthday</td>
<td>Veterans’ Day</td>
</tr>
<tr>
<td>Memorial Day</td>
<td>Thanksgiving Day</td>
</tr>
</tbody>
</table>

Other: |

3. Do you allow for unpaid leave? ☐ Yes, please explain policy. ☐ No

SECTION IV: EMPLOYEE COMPLAINT PROCEDURE

1. Does your company have an employee complaint resolution procedure?

☐ YES (Attach a copy of our company’s employee complaint resolution procedure.)

☐ NO, our company does not have an employee complaint resolution procedure.

SECTION V: COMPLIANCE WITH STATE AND FEDERAL WORKPLACE STANDARDS

Have any of the following State or Federal Regulatory agencies obtained final orders or final judgments finding a violation by your company of State or Federal law relating to the treatment of your employees? If your answer is yes to any of the questions below, please provide the date of entry of the final judgment or order, the agency which obtained the order, and a brief description of the nature of the violation on a separate sheet of paper.

1. California Department of Fair Employment and Housing Department (DFEH).

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☐ NO, our company has not had any final judgment or administrative order.
☐ YES, our company has had final judgment(s) or administrative order(s).

2. California Department of Industrial Relations (Cal OSHA).

☐ NO, our company has not had any final judgment(s) or administrative order(s)
☐ YES, our company has had final judgment(s) or administrative order(s).

3. California Department of Industrial Relations (Minimum Wage, hours or working conditions) Labor Board

☐ NO, our company has not had any final judgment(s) or administrative order(s).
☐ YES, our company has had final judgment(s) or administrative order(s).

SECTION VI: LABOR PEACE ASSURANCE

The City of San Jose has determined that labor peace is essential to the proprietary interests of the City in this RFP to ensure that contractors conducting business on City property are good employers, provide a good work environment without encroaching on the contractor’s ability to conduct business and comply with federal, state and City employment policies.

Proposers are free to submit any plan or program that demonstrates a good work environment and prevents disruption in services due to disputes with its employees. The following examples are provided solely for purpose of example. They are not intended to limit a proposer in any way from submitting any plan or program that assures labor peace.

1. Any existing or proposed plans, benefits or programs undertaken by the employer to attract and retain qualified employees and assist in providing uninterrupted service through the employer’s workplace condition and practices (Example: Company’s Employee Handbook);

2. A written dispute resolution policy or procedure (Example: Company’s Employee Handbook);

3. A written grievance policy or procedure (Example: Company’s Employee Handbook);

4. The formation of a joint labor-management committee – A committee comprised of employees from both labor and management to discuss issues of mutual concern;

5. A collective bargaining agreement between a firm and a recognized union;

6. Labor neutrality provision – A labor neutrality provision means the proposer, as employer, will accept a union’s campaign to convince the employer’s employees about the merits of unionization and also refrain from offering arguments against unionization;

7. “Card Check” provision – A “card check” provision means the proposer/employer would agree to allow representatives from a labor union to come on company property during work hours for
the purpose of organizing its workforce and collecting union authorization cards. The Proposer/Employer pledges to recognize the union if a certain number of signed union authorization cards are collected. This type of provision is typically coupled with a Labor Neutrality provision;

8. Any other information, plan or program regarding how the proposer will protect against disruptions in service due to disputes with its employees during the Term and any Option period of the Agreement.

Proposers are required to respond in the space provided below and attach any documents to show how it will prevent labor disputes or unrest from occurring during the term of the City Agreement. If the Questionnaire is incomplete or inadvertently omitted from your proposal, it will not result in immediate disqualification of your proposal. However, failure to submit this Questionnaire with your proposal or incomplete submittals, may result in a lower overall score.

Proposer provides the following Labor Peace Assurance(s):

SECTION VII: WARRANTY AND REPRESENTATION

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By signing below, proposer warrants and represents that if proposer is successful, the above listed benefits and complaint procedure will be maintained for the term of the agreement, and proposer declares that, to the best of its ability, it intends to ensure that essential services and labor for which it has been contracted will be provided efficiently and without interruption.

Company: ____________________________

Signature: ____________________________

Name: ________________________________

Title: _________________________________

Date: _________________________________