



## CITY COUNCIL STAFF REPORT

DATE: November 19, 2014 CONSENT AGENDA

SUBJECT: CONTRACT AWARD AIRPORT PROFESSIONAL SERVICES CONSULTING CONTRACT WITH URS CORPORATION FOR MAIN RUNWAY CONSTRUCTION MANAGEMENT.

FROM: David H. Ready, City Manager

BY: AIRPORT

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### SUMMARY

This action considers the award of a professional services contract to URS Corporation for construction management during the main runway rehabilitation project at Palm Springs International Airport.

### RECOMMENDATION:

1. Award contract to URS for airport project professional services including construction management, special testing, project compliance, and other aviation specific expertise as required by the Federal Aviation Administration, for a one-year term.
2. Authorize the City Manager to execute all necessary documents and up to ten percent (10%) of additional change order work as may be required to address unexpected changes in the project.

### STAFF ANALYSIS:

In April this year, Council approved FAA GRANT No. 3-06-0818-051-2014, to fund the design phase services for the upcoming runway pavement rehabilitation project at the Airport. That project is about forty percent complete to date with design and construction is slated for summer of 2015. The contract under consideration is related to construction management services that will be required during construction and now during completion of the design phase.


The Federal Aviation Administration mandates that projects under grant funds select and hire a qualified engineering consultant having proven experience in airport projects.


The City's current airport construction design firm is PB Aviation, and the firm being recommended for the construction management services is URS. Both firms have been selected in compliance with the Federal Aviation Administration as carried out through the City's Procurement Division's Statement of Qualifications (SOQ) 03-12 process. This process included a solicitation posted to the City's website, advertised in The Desert Sun and a national aviation trade journal, and then sent to twelve (12) firms. The City received five (5) submittals and after careful review by an Evaluation Committee consisting of Airport Management, Airport Commissioners, and a nationally recognized Airport industry engineering consultant, the firms were ranked. PB Aviation was number one and URS Corporation was ranked second. Both firms are nationally recognized with extensive experience in the field of airport pavement projects.

PB Aviation has since been awarded the design firm, and second ranked URS Corporation is recommended to conduct the construction management professional services. The scope and fees under this contract, consistent with FAA requirements, have been verified by an independent fee estimator that is experienced with airport paving projects.

FISCAL IMPACT:

The total contract amount is \$756,928.00 and 90 percent of these fees will be funded by forthcoming Federal Airport Improvement Grant No. 53 for \$686,230.00. The Airport local matching funds of \$70,698.00 have been budgeted from the Airport's enterprise fund, account number 416-6401-56172.

  
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Thomas Nolan,  
Executive Director, Airport

  
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David H. Ready, City Manager

Attachment: URS Professional Services Contract  
URS Scope of Services

**PROFESSIONAL SERVICES AGREEMENT**  
**As-Needed Aviation Consulting Services**  
**Palm Springs International Airport**

THIS PROFESSIONAL SERVICES AGREEMENT ( "Agreement") is entered into, and effective on November 19, 2014, between the CITY OF PALM SPRINGS, a California charter city and municipal corporation, ("City") and URS Corporation, a Nevada corporation ("Consultant"). City and Consultant are individually referred to as "Party" and are collectively referred to as the "Parties".

**RECITALS**

A. City has determined that there is a need for general, non-exclusive, as-needed Aviation Consulting Services inclusive of Construction Phase Management Services, and other Aviation Consulting Services, including without limitation the Scope of Services described in the Attachment A to this agreement, dated October 28, 2014, (collectively the "Aviation Consulting Services") as may be required from time to time for the Palm Springs International Airport ("Project").

B. Consultant has submitted to City signed, original proposal submitted to the City ("Consultant's Proposal") to provide the Aviation Consulting Services to City for the Project under the terms of this Agreement. Consultant is ready, willing, and able to provide the services the City desires, perform all Aviation Consulting Services necessary or appropriate for the Project, and meet the City's expectations as described in these Recitals.

C. The City desires to have the construction project managed in an integrated, functional, and attractive way so that the operational goals of the City can be achieved while ensuring that the Project will be an environmental, cultural, social, and governmental benefit to the City.

D. Consultant represents that it is regularly and appropriately licensed to practice architecture and/or engineering in the State of California and is qualified and expert in all respects to provide the required and desired Aviation Consulting Services and that its officers and employees are sufficient in number and possess the knowledge, experience, and character necessary to qualify them individually as expert for the particular duties they are to perform.

E. City desires to retain Consultant to provide the Aviation Consulting Services.

In consideration of these promises and mutual obligations, covenants, and conditions, the Parties agree as follows:

## AGREEMENT

### 1. SERVICES OF CONSULTANT

**1.1 Scope of Services.** In compliance with all terms and conditions of this Agreement, Consultant agrees to perform the professional services set forth in the Scope of Services described in Exhibit "C" (the "Services" or "Work"). As provided in the SOQ, the specific services is subject to definition and assignment by the City from time to time over the term of the Agreement. As each service is defined and assigned to Consultant, the task will be included as Services or Work and the compensation and schedule of performance for such services and shall be made a part of the Agreement, and shall be deemed attached to this Agreement as part of the Scope of Services, Compensation, and Schedule of Performance and incorporated by reference. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and professional services and that Consultant is experienced in performing the Work and Services contemplated and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the Work and Services required in this Agreement. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized as high quality among well-qualified and experienced professionals performing similar work under similar circumstances.

**1.2 Contract Documents.** The Agreement between the Parties shall consist of the following: (1) this Agreement; (2) the Scope of Services; (3) the SOQ; and, (4) the Consultant's Proposal, (collectively referred to as the "Contract Documents"). The SOQ and the Consultant's Proposal are incorporated by reference and are made a part of this Agreement. All provisions of the Scope of Services, the SOQ, and the Consultant's Proposal shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1<sup>st</sup>) the provisions of the Scope of Services; (2<sup>nd</sup>) the provisions of the SOQ; (3<sup>rd</sup>) the terms of this Agreement; and, (4<sup>th</sup>) the provisions of the Consultant's Proposal.

**1.3 Compliance with Law.** Consultant shall prepare all plans, specifications, and estimates for the services or work, and observe the work of construction to ensure the work is performed in compliance with the plans, specifications, and estimates. The Consultant shall ensure and warrant that all Services rendered shall be performed in accordance with all applicable federal, state, and local laws, statutes, ordinances lawful orders, rules, and regulations.

**1.4 Licenses, Permits, Fees, and Assessments.** Consultant represents and warrants to City that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, qualification, or approval that is legally required for Consultant to perform the Work and Services under this Agreement. Consultant shall have the sole obligation to pay for any fees,

assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Work and Services required by this Agreement. Consultant shall indemnify, defend, and hold harmless City against any such fees, assessments, taxes penalties, or interest levied, assessed, or imposed against City to the fullest extent permitted by law.

**1.5 Familiarity with Work.** By executing this Agreement, Consultant warrants that Consultant (a) will thoroughly investigate and consider the Scope of Services to be performed, (b) will carefully consider how the Services should be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services. Should the Consultant discover any latent or unknown conditions that will materially affect the performance of the Services, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City.

**1.6 Employees and Consultants.** The Consultant shall retain, at its sole cost and expense, personnel who are properly skilled in various aspects of the design and construction of the Project, including employees and third party engineers, consultants, and technicians. The Consultant shall retain personnel to perform, among other services, civil engineering, structural engineering, mechanical engineering (including both HVAC and plumbing), electrical engineering, landscape architecture, communications, essential facilities design, traffic engineering and such other specialized engineering and consulting services as are required for the design and construction of the Project.

**1.7 Performance Standard.** Consultant agrees to perform all services under this Agreement (i) in an expeditious, expert, and professional manner; (ii) in accordance with the highest and best standards of professional skill; and (iii) in accordance with all applicable federal, state, and local laws, statutes, ordinances lawful orders, rules, and regulations. Except as may be otherwise expressly provided in this Agreement, City and Consultant agree that Consultant shall not be exonerated or relieved from liability or responsibility by reason of the fact that City has reviewed, approved, or accepted any design or specifications prepared or recommended by Consultant in connection with the design of Project.

**1.8 Correction of Errors.** The Consultant at its own expense shall provide such services as may be necessary to correct errors, omissions, or conflicts which may occur in the design documents prepared by the Consultant or in the performance of services under this Agreement and which are the fault or responsibility of the Consultant or Consultant's Consultants, of every tier.

**1.9 Accuracy of Plan.** The Consultant expressly warrants all plans, drawings, specifications, and other design documents furnished for the Project will be fully sufficient, complete, and accurate in all respects and warrants that such plans, drawings, and specifications will fulfill and be fit in all respects for the purpose for which they are intended by the City.

**1.10 City Acceptance.** Any and all consents, approvals, or acceptances of the City which may be required under this Agreement must be in writing in order to be effective. Consultant acknowledges that the City, the Contract Officer, and its elected officials, employees, and staff are not experts or professionals in the fields of architecture, engineering, and design and that the City will be relying entirely upon the expertise and professional abilities of the Consultant to prepare fully accurate and complete plans, drawings, and specifications for the Project. City consents, approvals, and acceptances shall not be construed as a finding or determination by the City that the plans, drawings, and specifications or any part thereof are accurate or complete, nor shall such consents, approvals, and acceptances be construed as a release or waiver of the obligation of the Consultant to provide accurate and complete plans, drawings, and specifications in accordance with the highest and best professional skill, consistent with its obligations pursuant to this Agreement.

**1.11 Responsible for Quality and Accuracy.** The Consultant shall be responsible for the professional quality, technical accuracy, and the coordination and adequacy of all designs, drawings, specifications and other services furnished under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in such designs, drawings, specifications, and other services. The Consultant shall be fully responsible for any and all costs, including any delay damages, incurred by the City as a result of any error or omission in the designs, drawings, and specifications for the Project. Neither the City's review, approval, acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any action arising out of the performance of this Agreement. The Consultant shall be and remains liable to the City in accordance with this Agreement and all applicable laws for any and all damages to the City caused by the unsatisfactory or negligent performance of any of the services furnished under this Agreement. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law. If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable thereunder.

**1.12 Public Agency Approvals.** The Consultant shall assist and cooperate with the City's Contract Officer in applying for and securing all required approvals from public agencies having jurisdiction over the Project. The Consultant shall provide in a timely manner all documentation, drawings, plans, and specifications and such other materials as the City or Contract Officer may request to secure such approvals.

**1.13 Cooperation.** Consultant agrees to cooperate with, and coordinate Consultant's and Consultant's consultants' services with those services provided by the City's Contract Officer.

**1.14 Further Responsibilities of Parties.** Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

## **2. COMPENSATION**

**2.1 Maximum Contract Amount.** For the Services rendered under this Agreement, Consultant shall be compensated by City in accordance with the Schedule of Compensation, which is attached as Exhibit "D" and incorporated in this Agreement by reference. As each service or services (or work or works) is added to the Scope of Work as described in Section 1.1 of this Agreement, the Maximum Contract Amount for each such service or work shall be specified by the City and acknowledged by Consultant and included in the Scope of Work for such service or work. Compensation for necessary expenditures for reproduction costs, telephone expenses, and transportation expenses must be approved in advance by the Contract Officer designated under Section 4.2 and will only be approved if such expenses are also specified in the Schedule of Compensation. The Maximum Contract Amount shall include the attendance of Consultant at all Project meetings reasonably deemed necessary by the City. Consultant shall not be entitled to any increase in the Maximum Contract Amount for attending these meetings. Consultant accepts the risk that the services identified in the Scope of Services may be more costly and/or time-consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation. The maximum amount of city's payment obligation under this section is the amount specified in for each defined and assigned service or work as provided in this Agreement. If the City's maximum payment obligation is reached before the Consultant's Services hereunder are completed, Consultant shall complete the service or work and City shall not be liable for payment beyond the Maximum Contract Amount.

**2.2. Method of Payment.** Unless another method of payment is specified in the Schedule of Compensation (Exhibit "D"), in any month in which Consultant wishes to receive payment, Consultant shall submit to the City an invoice for services rendered prior to the date of the invoice. The invoice shall be in a form approved by the City's Finance Director and must be submitted no later than the tenth (10) working day of such month. Such requests shall be based upon the amount and value of the services performed by Consultant and accompanied by such reporting data including an itemized breakdown of all costs incurred and tasks performed during the period covered by the invoice, as may be required by the City. City shall use reasonable efforts to make payments to Consultant within forty-five (45) days after receipt of the invoice or as soon as is reasonably practical. There shall be a maximum of one payment per month.

**2.3 Amendments.** Notwithstanding the provisions of Section 2.1 of this Agreement, in the event any of the following circumstances, the Parties shall execute a written amendment to this Agreement, specifying all proposed amendments, including, but not limited to, any additional fees. An amendment may be entered into:

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

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

**2.4 Appropriations.** This Agreement is subject to and contingent upon funds being appropriated by the City Council for each fiscal year covered by the Agreement. If such appropriations are not made, the City may in its sole discretion terminate this Agreement without penalty to the City notwithstanding any other provision of this agreement to the contrary.

### 3. SCHEDULE OF PERFORMANCE

3.1 **Time of Essence.** Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Consultant is an essential condition of this Agreement. As each service or services (or work or works) is added to the Scope of Work as described in Section 1.1 of this Agreement, a Schedule of Performance for such services or work shall be identified and included as part of the Scope of Work for such services or work. Consultant shall prosecute regularly and diligently the Work of this Agreement according to the such Schedule of Performance.

3.2 **Schedule of Performance.** Consultant shall commence the Services under this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the Schedule of Performance. When requested by Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer, but such extensions shall not exceed one hundred eighty (180) days cumulatively; however, the Contract Officer shall not be obligated to grant such an extension.

3.3 **Force Majeure.** The time period(s) specified in the Schedule of Performance for performance of the Services rendered under this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant (financial inability excepted) if Consultant, within ten (10) days of the commencement of such delay, notifies the Contract Officer in writing of the causes of the delay. Unforeseeable causes include, but are not limited to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the City. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused. Consultant's sole remedy shall be extension of the Agreement under this section.

3.4 **Term.** Unless earlier terminated under this Agreement, this Agreement shall commence upon the effective date of this Agreement and continue in full force and effect until completion of the Services. However, the term shall not exceed one (1) year from the commencement date, except as otherwise provided in the Schedule of Performance described in Section 3.2 above. Any extension must be through mutual written agreement of the Parties.

3.5 **Termination Prior to Expiration of Term.** City may terminate this Agreement for its convenience at any time, without cause, in whole or in part, upon giving Consultant thirty (30) days written notice. Where termination is due to the fault of Consultant and constitutes an immediate danger to health, safety, and general welfare, the period of notice shall be such shorter time as may be determined by the City. Upon such notice, City shall pay Consultant for Services performed through the date of termination. Upon receipt of such notice, Consultant shall immediately cease all work under this Agreement, unless stated otherwise in the notice or by



written authorization of the Contract Officer. After such notice, Consultant shall have no further claims against the City under this Agreement. Upon termination of the Agreement under this section, Consultant shall submit to the City an invoice for work and services performed prior to the date of termination. Consultant may terminate this Agreement, with or without cause, upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Consultant may determine.

#### **4. COORDINATION OF WORK**

**4.1 Representative of Consultant.** The following principal of Consultant is designated as being the principal and representative of Consultant authorized to act in its behalf and make all decisions with respect to the Services to be performed under this Agreement: Shammi Ratti, Vice President, Aviation Director. It is expressly understood that the experience, knowledge, education, capability, expertise, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services performed hereunder. The foregoing principal may not be changed by Consultant without prior written approval of the Contract Officer.

**4.2 Contract Officer.** The Contract Officer shall be the City Manager or the City Manager's designee ("Contract Officer"). Consultant shall be responsible for keeping the Contract Officer fully informed of the progress of the performance of the services. Consultant shall refer any decisions that must be made by City to the Contract Officer. Unless otherwise specified, any approval of City shall mean the approval of the Contract Officer.

**4.3 Prohibition Against Subcontracting or Assignments.** The experience, knowledge, capability, expertise, and reputation of Consultant, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not assign full or partial performance of this Agreement, nor any monies due, voluntarily or by operation of law, without the prior written consent of City. Consultant shall not contract with any other entity to perform the Services required under this Agreement without the prior written consent of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the Work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant. In addition, neither this Agreement nor any interest in this Agreement may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written consent of City. Transfers restricted in this Agreement shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant from any liability under this Agreement without the express written consent of City.

**4.4 Independent Contractor.** The legal relationship between the Parties is that of an independent contractor, and nothing shall be deemed to make Consultant a City employee.

A. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act or represent themselves as City officers or employees. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set forth in this Agreement. Consultant, its officers, employees, or agents shall not maintain an office or any other type of fixed business location at City's offices. City shall have no voice in the selection, discharge, supervision, or control of Consultant's employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. Consultant shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Consultant in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. Consultant shall not have any authority to bind City in any manner. This includes the power to incur any debt, obligation, or liability against City.

C. No City benefits shall be available to Consultant, its officers, employees, or agents in connection with any performance under this Agreement. Except for professional fees paid to Consultant as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for the performance of Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents, for injury or sickness arising out of performing Services. If for any reason any court or governmental agency determines that the City has financial obligations, other than under Section 2 and Subsection 1.8 in this Agreement, of any nature relating to salary, taxes, or benefits of Consultant's officers, employees, servants, representatives, subcontractors, or agents, Consultant shall indemnify City for all such financial obligations.

## **5. INSURANCE**

**5.1 Types of Insurance.** Consultant shall procure and maintain, at its sole cost and expense, the insurance described below. The insurance shall be for the duration of this Agreement and includes any extensions, unless otherwise specified in this Agreement. The insurance shall be procured in a form and content satisfactory to City. The insurance shall apply against claims which may arise from the Consultant's performance of Work under this Agreement, including Consultant's agents, representatives, or employees. In the event the City Manager determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager or his designee. Consultant shall immediately substitute any insurer whose A.M. Best

rating drops below the levels specified in this Agreement. Except as otherwise authorized below for professional liability (errors and omissions) insurance, all insurance provided under this Agreement shall be on an occurrence basis. The minimum amount of insurance required shall be as follows:

A. Errors and Omissions Insurance. Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, standard industry form professional liability (errors and omissions) insurance coverage in an amount of not less than one million dollars (\$1,000,000.00) per occurrence and two-million dollars (\$2,000,000.00) annual aggregate, in accordance with the provisions of this section.

(1) Consultant shall either: (a) certify in writing to the City that Consultant is unaware of any professional liability claims made against Consultant and is unaware of any facts which may lead to such a claim against Consultant; or (b) if Consultant does not provide the certification under (a), Consultant shall procure from the professional liability insurer an endorsement providing that the required limits of the policy shall apply separately to claims arising from errors and omissions in the rendition of services under this Agreement.

(2) If the policy of insurance is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the City Manager.

(3) In the event the policy of insurance is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall immediately be obtained to ensure coverage during the entire course of performing the Services under the terms of this Agreement.

B. Workers' Compensation Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, workers' compensation insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Consultant agrees to waive and obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies. If Consultant has no employees, Consultant shall complete the City's Request for Waiver of Workers' Compensation Insurance Requirement form.

C. Commercial General Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of commercial general liability insurance written on a per occurrence basis with a combined single limit of at least one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000.00) general aggregate for bodily injury and property damage including coverages for contractual liability, personal injury, independent contractors, broad form property damage, products and completed operations.

D. Business Automobile Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of business automobile liability insurance written on a per occurrence basis with a single limit liability in the amount of one million dollars (\$1,000,000.00) bodily injury and property damage. The policy shall include coverage for owned, non-owned, leased, and hired cars.

E. Employer Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of employer liability insurance written on a per occurrence basis with a policy limit of at least one million dollars (\$1,000,000.00) for bodily injury or disease.

**5.2 Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City Manager or his/her designee prior to commencing any work or services under this Agreement. Consultant guarantees payment of all deductibles and self-insured retentions. City reserves the right to reject deductibles or self-insured retentions in excess of \$10,000, and the City Manager or his/her designee may require evidence of pending claims and claims history as well as evidence of Consultant's ability to pay claims for all deductible amounts and self-insured retentions proposed in excess of \$10,000.

**5.3 Other Insurance Requirements.** The following provisions shall apply to the insurance policies required of Consultant under this Agreement:

5.3.1 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City and its officers, council members, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City and its officers, council members, officials, employees, agents, and volunteers shall be in excess of Consultant's insurance and shall not contribute with it.

5.3.2 Any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to City and its officers, council members, officials, employees, agents, and volunteers.

5.3.3 All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this

Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

- 5.3.4 No required insurance coverages may include any limiting endorsement which substantially impairs the coverages set forth in this Agreement (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City Manager and approved in writing.
- 5.3.5 Consultant agrees to require its insurer to modify insurance endorsements to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the endorsements. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Consultant's obligation to ensure timely compliance with all insurance submittal requirements as provided in this Agreement.
- 5.3.6 Consultant agrees to ensure that subcontractors, and any other parties involved with the Project who are brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.
- 5.3.7 Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on the City nor does it waive any rights in this or any other regard.
- 5.3.8 Consultant shall provide proof that policies of insurance required in this Agreement, expiring during the term of this Agreement, have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. Endorsements as required in this Agreement applicable to the renewing or new coverage shall be provided to City no later than ten (10) days prior to expiration of the lapsing coverage.
- 5.3.9 Requirements of specific insurance coverage features or limits contained in this section are not intended as limitations on coverage, limits, or other requirements, or as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not

intended by any party or insured to be limiting or all-inclusive.

5.3.10 The requirements in this section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impair the provisions of this section.

5.3.11 Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the Work performed under this Agreement and for any other claim or loss which may reduce the insurance available to pay claims arising out of this Agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City, or to reduce or dilute insurance available for payment of potential claims.

5.3.12 Consultant agrees that the provisions of this section shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages resulting from the Consultant's activities or the activities of any person or person for which the Consultant is otherwise responsible.

**5.4 Sufficiency of Insurers.** Insurance required in this Agreement shall be provided by authorized insurers in good standing with the State of California. Coverage shall be provided by insurers admitted in the State of California with an A.M. Best's Key Rating of B++, Class VII, or better, unless such requirements are waived in writing by the City Manager or his designee due to unique circumstances.

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

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

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

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

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

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

In addition to the endorsements listed above, the City of Palm Springs shall be named the certificate holder on the policies. All certificates of insurance and endorsements are to be received and approved by the City before work commences. All certificates of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Failure to obtain the required documents prior to the commencement of work shall not waive the Consultant's obligation to provide them.

## **6. INDEMNIFICATION**

### **6.1 Indemnification and Reimbursement.**

A. To the fullest extent permitted by law, Consultant shall indemnify, defend (at Consultant's sole cost and expense), protect and hold harmless City and its elected officials, officers, employees, agents and volunteers and all other public agencies whose approval of the project is required, (individually "Indemnified Party"; collectively "Indemnified Parties") against any and all liabilities, claims, judgments, arbitration awards, settlements, costs, demands, orders and penalties (collectively "Claims"), including but not limited to Claims arising from injuries or death of persons (Consultant's employees included) and damage to property, which Claims arise out of, pertain to, or are related to the negligence, recklessness or willful misconduct of Consultant, its agents, employees, or subcontractors, or arise from Consultant's negligent, reckless or willful performance of or failure to perform any term, provision, covenant or condition of this Agreement ("Indemnified Claims"), but Consultant's liability for Indemnified Claims shall be reduced to the extent such Claims arise from the negligence, recklessness or willful misconduct of the City and its elected officials, officers, employees, agents and volunteers.

B. The Consultant shall require all non-design-professional sub-contractors, used or sub-contracted by Consultant to perform the Services or Work required under this Agreement, to execute an Indemnification Agreement adopting the indemnity provisions in paragraph C of this sub-section 6.1 in favor of the Indemnified Parties. In addition, Consultant shall require all non-design-professional sub-contractors, used or sub-contracted by Consultant to perform the Services or Work required under this Agreement, to obtain insurance that is

consistent with the Insurance provisions as set forth in this Agreement, as well as any other insurance that may be required by Contract Officer.

C. To the fullest extent permitted by law, Sub-Contractor shall defend (at Sub-Contractor's sole cost and expense), indemnify, protect, and hold harmless City, its elected officials, officers, employees, agents, and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (Consultant's and Sub-Contractor's employees included), for damage to property, including property owned by City, from any violation of any federal, state, or local law or ordinance, and from errors and omissions committed by Sub-Contractor, its officers, employees, representatives, and agents, that arise out of or relate to Sub-Contractor's performance under this Agreement. This indemnification clause excludes Claims arising from the sole negligence or willful misconduct of the City, its elected officials, officers, employees, agents, and volunteers. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Sub-Contractor's indemnification obligation or other liability under this Agreement. Sub-Contractor's indemnification obligation shall survive the expiration or earlier termination of this Agreement until all actions against the Indemnified Parties for such matters indemnified are fully and finally barred by the applicable statute of limitations or, if an action is timely filed, until such action is final. This provision is intended for the benefit of third party Indemnified Parties not otherwise a party to this Agreement.

## **7. REPORTS AND RECORDS**

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

**7.2 Reports.** Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement, or as the Contract Officer shall require. Consultant acknowledges that the City is greatly concerned about the cost of the Work and Services to be performed under this Agreement. For this reason, Consultant agrees that Consultant shall promptly notify the Contract Officer the estimated increased or decreased cost if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the contemplated Work or Services. If Consultant is providing design services, Consultant shall promptly notify the Contract Officer the estimated increased or decreased cost for the project being designed if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the design services.



**7.3 Ownership of Documents.** All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subcontractors, and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials. Any use of such completed documents for other projects and/or use of incomplete documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and the City shall indemnify the Consultant for all resulting damages. Consultant may retain copies of such documents for their own use. Consultant shall have an unrestricted right to use the concepts embodied in this Agreement. Consultant shall ensure that all its subcontractors shall provide for assignment to City of any documents or materials prepared by them. In the event Consultant fails to secure such assignment, Consultant shall indemnify City for all resulting damages.

**7.4 Release of Documents.** All drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization.

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

## **8. ENFORCEMENT OF AGREEMENT**

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

**8.2 Interpretation.** This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be

employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

**8.3 Default of Consultant.** Consultant's failure to comply with any provision of this Agreement shall constitute a default.

A. If the Contract Officer determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, the Contract Officer shall notify Consultant in writing of such default. Consultant shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Consultant fails to cure its default within such period of time, the Contract Officer shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity, or under this Agreement. Consultant shall be liable for all reasonable costs incurred by City as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any City right to take legal action in the event that the dispute is not cured, provided that nothing shall limit City's right to terminate this Agreement without cause under Section 3.5.

B. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.3A, take over the work and prosecute the same to completion by contract or otherwise. The Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the City shall use reasonable efforts to mitigate such damages). The City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated. The withholding or failure to withhold payments to Consultant shall not limit Consultant's liability for completion of the Services as provided in this Agreement.

**8.4 Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions.

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

**8.6 Legal Action.** In addition to any other rights or remedies, either Party may take

legal action, in law or in equity, to cure, correct, remedy or recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

**8.7 Attorney Fees.** In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses. These include but are not limited to reasonable attorney fees, expert consultant fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

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

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

**9.2 Conflict of Interest.** No officer or employee of the City shall have any direct or indirect financial interest in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects their financial interest or the financial interest of any corporation, partnership, or association in which he/she is, directly or indirectly, interested in violation of any state statute or regulation. Consultant warrants that Consultant has not paid or given, and will not pay or give, any third party any money or other consideration in exchange for obtaining this Agreement.

**9.3 Covenant Against Discrimination.** In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, marital status, ancestry, or national origin. Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

## **10. MISCELLANEOUS PROVISIONS**

**10.1 Patent and Copyright Infringement.** To the fullest extent permissible under law, and in lieu of any other warranty by City or Consultant against patent or copyright infringement, statutory or otherwise:

A. It is agreed that Consultant shall defend at its expense any claim or suit against City on account of any allegation that any item furnished under this Agreement, or the

normal use or sale arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and Consultant shall pay all costs and damages finally awarded in any such suit or claim, provided that Consultant is promptly notified in writing of the suit or claim and given authority, information and assistance at Consultant's expense for the defense of same, and provided such suit or claim arises out of, pertains to, or is related to the negligence, recklessness or willful misconduct of Consultant. However, Consultant will not indemnify City if the suit or claim results from: (1) City's alteration of a deliverable, such that City's alteration of such deliverable created the infringement upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by Consultant when it is such use in combination which infringes upon an existing U.S. letters patent or copyright.

B. Consultant shall have sole control of the defense of any such claim or suit and all negotiations for settlement in the event City fails to cooperate in the defense of any suit or claim, provided, however, that such defense shall be at Consultant's expense. Consultant shall not be obligated to indemnify City under any settlement that is made without Consultant's consent, which shall not be unreasonably withheld. If the use or sale of such item is enjoined as a result of the suit or claim, Consultant, at no expense to City, shall obtain for City the right to use and sell the item, or shall substitute an equivalent item acceptable to City and extend this patent and copyright indemnity thereto.

**10.2 Notice.** Any notice, demand, request, consent, approval, or communication that either party desires, or is required to give to the other party or any other person shall be in writing. All notices shall be personally delivered, sent by pre-paid First Class U.S. Mail, registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission. All notices shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Any notice, request, demand, direction, or other communication sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered. Other forms of electronic transmission such as e-mails, text messages, and instant messages are not acceptable manners of notice required hereunder. Notices or other communications shall be addressed as follows:

To City:

City of Palm springs  
Attention: City Manager & City Clerk  
3200 E. Tahquitz Canyon Way  
Palm springs, California 92262  
Telephone: (760) 323-8204  
Facsimile: (760) 323-8332

With copy to:

Thomas Nolan, A.A.E.  
3400 E. Tahquitz Canyon Way, Suite OFC  
Palm Springs, CA 92262

To Consultant:

Shammi Ratti  
URS Corp., Century Square  
1501 4<sup>th</sup> Ave, Suite 1400  
Seattle, WA 98101-1616  
Phone (206)438-2228 FAX (866) 495-5288

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

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

**10.5 Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

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

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

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

**10.8. Corporate Authority.** Each of the undersigned represents and warrants that (i) the Party for which he or she is executing this Agreement is duly authorized and existing, (ii) he or she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he or she is signing, (iii) by so executing this Agreement, the Party for which he or she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he or she is signing is bound.

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

**"CITY"**  
**City of Palm Springs**

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

By: \_\_\_\_\_  
David H. Ready  
City Manager

**APPROVED AS TO FORM:**

**ATTEST**

By: \_\_\_\_\_  
Douglas C. Holland,  
City Attorney

By: \_\_\_\_\_  
James Thompson,  
City Clerk

**APPROVED BY CITY COUNCIL:**

Date: \_\_\_\_\_ Agreement No. \_\_\_\_\_

Corporations require two notarized signatures. One signature must be from Chairman of Board, President, or any Vice President. The second signature must be from the Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.

**CONSULTANT NAME:**

\_\_\_\_\_

Check one  Individual  Partnership  Corporation

\_\_\_\_\_ Address

\_\_\_\_\_

By \_\_\_\_\_  
Signature (Notarized)

By \_\_\_\_\_  
Signature (Notarized)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
 County of \_\_\_\_\_ }

On \_\_\_\_\_ before me, \_\_\_\_\_  
Date Here insert Name and Title of the Officer  
 personally appeared \_\_\_\_\_  
Name(s) of Signer(s)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

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

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

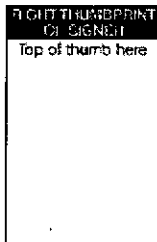
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

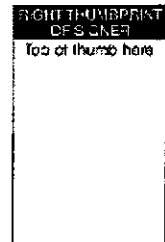
- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_  
 \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_  
 \_\_\_\_\_

**EXHIBIT "A"**

**Scope of Services for  
Construction Management, Inspection, Engineering and Testing Services**

**For**

**Rehabilitate Runway 13R-31L and Related Work**

**At**

**Palm Springs International Airport (PSP)**

**Sponsored by:**

**City of Palm Springs  
Palm Springs, CA**

**Prepared by:**

**URS Corporation**

**Rev\_02: October 28, 2014**



## **INTRODUCTION**

This scope of services (Scope) outlines the tasks proposed by URS Corporation (URS) to assist the City of Palm Springs (the City) and Palm Springs International Airport (PSP) with Construction Management, Inspection, Engineering, and Testing Services associated with the Rehabilitate Runway 13R-31L and Related Work Project (the Project). The Project will rehabilitate the existing asphalt concrete (AC) pavement Runway 13R-31L (RW 13R-31L). This will require RW 13R-31L and RW 13L-31R to be closed, and Taxiway Charlie (TW C) to be converted to RW 13C-31C. The effect will translate into the rehabilitation of approximately 260,000 square yards of AC pavement. Other activities include, but are not limited to:

- Reconfigure the pavement markings, airfield signing (AFS), and airfield lighting (AFL) from TW C operations to the temporary RW 13C-31C operations.
- Install temporary Runway End Identifier Lights (REILs) and Pulse Light Approach Slope Indicator (PLASI) systems at each temporary RW 13C-31C approach.
- Prepare and publish flight procedures for temporary RW 13C-31C and perform associated commissioning flight checks.
- Close RW 13R-31L and RW 13L-31R (including decommission associated AFL and navigational aids (NAVAIDS)) and open temporary RW 13C-31C.
- Mill and resurface approximately 260,000 square yards of RW 13R-31L AC pavement and associated taxiway connectors.
- Remove and replace RW 13R-31L existing AFL and AFS with LED lights where called for in the plans.
- Install RW 13R-31L pavement markings in their final configuration.
- Open RW 13R-31L and RW 13L-31R.
- Convert temporary RW 13C-31C to TW C operations (pavement marking, AFS, and AFL reconfiguration).

The following Scope items shall be included for the above work.

**Project Management** – Provide project management functions to successfully execute the work. This includes meetings and coordination with the Airport's Project Manager, engineering and field staff, managing subconsultants, maintaining record files, and preparing monthly progress reports and invoice summaries.

- Provide monthly reports of the activities for the preceding month as specified in the contract documents.
- Prepare and maintain project filing systems, monitor correspondence and meeting minutes, monitor construction against plans specifications for adequacy.
- Manage subconsultants for the construction phase services; maintain URS contract files; coordinate contract activity with the Airport's Contract Administrator.
- Attend weekly construction and additional on-site meetings as may be required.

### **1.1**

**1.2 Project Engineering** – Provide project engineering support to administer the construction contract in conformance with the contract plans and specifications. Activities include the following:

- Prepare Conformed Set of Drawings (completed by others).
- Review all contractor submittals and shop drawings (by others).
- Provide constructability reviews for the 30%, 65%, and 100% Plans, Specifications, and Estimate (PS&E) packages (Construction Manager, Construction Manager – Electrical, Senior Airport Engineer and Electrical Engineer).
- Prepare and review construction change orders (Airport Civil Engineer and Electrical Engineer).
- Prepare responses to Contractor RFI's related to the Engineer's Plans (by others).
- Prepare responses to Contractor RFI's related to unforeseen conditions.

- Review daily and weekly inspection reports and project logs (Project Manager).
- Review and recommend for final processing Contractor pay requests (Airport Civil Engineer).
- Technical support for pre-construction planning activities and coordination (Senior Airport Engineer, Airport Civil Engineer, and Electrical Engineer).
- Technical support for flight procedure and flight check coordination with the FAA (Senior Airport Engineer, Airport Civil Engineer, Construction Manager – Electrical, and Electrical Engineer).
- PM / Technical Representative to participate in weekly construction meetings (Project Manager, Senior Airport Engineer, Airport Civil Engineer, and Electrical Engineer).

### 1.3

**1.4 Construction Management, Resident Engineering and Inspection** – Provide construction management, resident engineering, and inspection field representatives to perform job-site construction inspections, monitor and document construction progress, conformance with schedules, conformance with airfield operational requirements, and conformance with construction plans and specifications. The Construction Manager shall prepare daily activity reports documenting construction progress, including installation of material; number of workers, their hours and significant conversations, observations, and/or situations that affect the progress of the work. The Construction Manager shall be responsible for informing the Airport's Project Representative in writing as soon as possible of any defects or deficiencies, delays, contractor's deviation from the contract documents, and/or contractor's breach of the construction contract.

- Prepare and maintain separate logs for project correspondence, payroll information, submittals and shop drawings (by others), RFI's (by others), change proposals, change orders, daily and weekly inspection reports, material quantities and pay estimates.
- Take and distribute meeting notes. Provide a draft copy for comment and review within one day. Upon receiving comments, revise meeting notes incorporating applicable comments and changes. Distribute electronically via email to the FAA and all attendees within one day after receiving comments.
- Prepare weekly progress reports to the FAA.
- Review Contractor's payment requests including review of certified payrolls for compliance with the Contract Documents.
- Review Redlines with Contractor weekly and confirm they are current.

**1.5 Inspections, Punch list, Re-inspection** - Within 2 days from the Contractors notification that each construction phase is complete, prepare a punch list and completion schedule for review. Conduct re-inspections as necessary to ensure completion of punch list items.

**1.6 Preparation of Record Drawings (by others)** – Review submitted redlines for completeness. Prepare record drawings. Deliver one set of full size prints, two sets of 11" x 17" prints, and two electronic copies of record drawings in AutoCAD and PDF format for the project.

**1.7 Final Closeout Report** - Prepare the FAA Final Report and closeout documentation for the project and submit to the Airport and FAA upon completion.

### **CONSTRUCTION MANAGEMENT AND INSPECTION DELIVERABLES**

- Meeting minutes for all meetings conducted.
- Project Logs of responses to RFI's, submittals, and change proposal requests.
- Daily construction activity reports (1 civil, 1 AFL and NAVAIDS).
- Weekly FAA reports.
- Change Order forms and documentation.
- AC pavement and structural concrete acceptance and control test results.
- Punch list and re-inspection reports.
- Final Closeout Report.

### **CONSTRUCTION MANAGEMENT AND INSPECTION ASSUMPTIONS**

- The construction duration for the project is expected to continue over 5+ months or approximately 17 weeks. The start date used for calculating the level of effort in the field is May 5, 2015. It is anticipated that the end date for construction will be October 12, 2015. This construction schedule used for estimating purposes is based on the schedule provided to URS October 8, 2014, by PSP Airport Administration Manager (Mark Jucht).
- The level of effort assumes the Contractor will work 8 hours per day, Monday through Friday. Construction Inspectors will be onsite 30 minutes prior to the expected start time to participate in Safety Meetings and review updated field directives, submittals, and RFIs. Construction Inspectors will be onsite for 90 minutes after the expected end time to close out the construction site with PSP Operations and complete their daily inspection reports. The total work hours per day for construction staff is 10 hours (major milling and paving operations only).
- During the Notice to Proceed and Mobilization Phase, the Resident Engineer (RE) and Project Administration – CM (PA-CM) will be onsite for construction office set up, document control set up, review conformed plans and specifications, prepare construction coordination protocols, complete badging process, complete vehicle registration process, initiate Submittal Review process, and participate in construction coordination meetings with PSP and the Contractor. The Construction Manager (CM), PA-CM, Field Inspectors 1 and 2, and Field Inspector 3 will be onsite 2 weeks prior to the start of the Convert TW C to RW 13C-31C Phase to review conformed plans and specification, review approved submittals, complete badging process, complete vehicle registration process, and participate in in construction coordination meeting with PSP and the Contractor.
- During the Convert TW C to RW 13C-31C Phase, the RE, Field Inspectors 1 and 2 will be onsite to inspect pavement marking reconfiguration, inspect AFL and AFS reconfiguration, inspect NAVAID installation, and perform construction administration duties. The PA-CM will be onsite 3 days a week for document control, to prepare meeting minutes, and assist with construction administration duties. The CM will review daily reports, conduct the Weekly Construction Progress Meetings, and Coordinate as necessary with the Airport and the Contractor.
- During the Close and Reconstruct RW 13R-31L and Close RW 13L-31R Phase, the RE, PA-CM, Field Inspectors 1, 2, and 3 will be onsite to inspect milling and paving operations, inspect AFL and AFS, and perform construction administration duties. The CM will review daily reports, conduct the Weekly Construction Progress Meetings, and Coordinate as necessary with the Airport and the Contractor.
- During the Convert RW 13C-31C to TW C Phase, the RE, Field Inspectors 1 and 2 will be onsite to inspect pavement marking reconfiguration, inspect AFL and AFS reconfiguration, inspect NAVAID decommissioning, and perform construction administration duties. The PA-CM will be onsite for document control, to prepare meeting minutes, and assist with construction administration duties. The CM will review daily reports, conduct the Weekly Construction Progress Meetings, and Coordinate as necessary with the Airport and the Contractor.
- During the Project Closeout Report and Final Acceptance Phase, the RE, Field Inspector 2 – AFL & NAVAIDS Electrical Engineer will be onsite to prepare the Project Closeout Report and inspect Final Punchlist Items. The PA-CM will be onsite for document control, to prepare meeting minutes, and assist with construction administration duties. The CM will review daily reports, conduct the Weekly Construction Progress Meetings, and Coordinate as necessary with the Airport and the Contractor.
- There is no NAVAID work requiring electrical inspection associated with the RW 13R-31L work.
- At the time this scope of work and estimated level of effort were prepared, final plans, quantities, and the Contractor's schedule were not available. Therefore, these assumptions should be revisited as the project progresses through 100% PS&E Development and the Notice to Proceed and Mobilization Phases.
- Testing Laboratory – QA Acceptance level of effort to be provided after final plans and quantities have been prepared. This will be in addition to the proposed cost of the Construction Management services noted in the level of effort.

END OF SCOPE

**EXHIBIT "B"**

**SCHEDULE OF COMPENSATION**

**Scope of Services for**  
**Construction Management, Inspection, Engineering and Testing Services**  
**For**  
**Rehabilitate Runway 13R-31L and Related Work**  
**At**  
**Palm Springs International Airport (PSP)**

**Sponsored by:**

**City of Palm Springs**  
Palm Springs, CA

**Prepared by:**

**URS Corporation**

Rev\_02: October 28, 2014

## **INTRODUCTION**

This scope of services (Scope) outlines the tasks proposed by URS Corporation (URS) to assist the City of Palm Springs (the City) and Palm Springs International Airport (PSP) with Construction Management, Inspection, Engineering, and Testing Services associated with the Rehabilitate Runway 13R-31L and Related Work Project (the Project). The Project will rehabilitate the existing asphalt concrete (AC) pavement Runway 13R-31L (RW 13R-31L). This will require RW 13R-31L and RW 13L-31R to be closed, and Taxiway Charlie (TW C) to be converted to RW 13C-31C. The effect will translate into the rehabilitation of approximately 260,000 square yards of AC pavement. Other activities include, but are not limited to:

- Reconfigure the pavement markings, airfield signing (AFS), and airfield lighting (AFL) from TW C operations to the temporary RW 13C-31C operations.
- Install temporary Runway End Identifier Lights (REILs) and Pulse Light Approach Slope Indicator (PLASI) systems at each temporary RW 13C-31C approach.
- Prepare and publish flight procedures for temporary RW 13C-31C and perform associated commissioning flight checks.
- Close RW 13R-31L and RW 13L-31R (including decommission associated AFL and navigational aids (NAVAIDS)) and open temporary RW 13C-31C.
- Mill and resurface approximately 260,000 square yards of RW 13R-31L AC pavement and associated taxiway connectors.
- Remove and replace RW 13R-31L existing AFL and AFS with LED lights where called for in the plans.
- Install RW 13R-31L pavement markings in their final configuration.
- Open RW 13R-31L and RW 13L-31R.
- Convert temporary RW 13C-31C to TW C operations (pavement marking, AFS, and AFL reconfiguration).

The following Scope items shall be included for the above work.

**Project Management** – Provide project management functions to successfully execute the work. This includes meetings and coordination with the Airport's Project Manager, engineering and field staff, managing subconsultants, maintaining record files, and preparing monthly progress reports and invoice summaries.

- Provide monthly reports of the activities for the preceding month as specified in the contract documents.
- Prepare and maintain project filing systems, monitor correspondence and meeting minutes, monitor construction against plans specifications for adequacy.
- Manage subconsultants for the construction phase services; maintain URS contract files; coordinate contract activity with the Airport's Contract Administrator.
- Attend weekly construction and additional on-site meetings as may be required.

**Project Engineering** – Provide project engineering support to administer the construction contract in conformance with the contract plans and specifications. Activities include the following:

- Prepare Conformed Set of Drawings (completed by others).
- Review all contractor submittals and shop drawings (by others).
- Provide constructability reviews for the 30%, 65%, and 100% Plans, Specifications, and Estimate (PS&E) packages (Construction Manager, Construction Manager – Electrical, Senior Airport Engineer and Electrical Engineer).
- Prepare and review construction change orders (Airport Civil Engineer and Electrical Engineer).
- Prepare responses to Contractor RFI's related to the Engineer's Plans (by others).
- Prepare responses to Contractor RFI's related to unforeseen conditions.
- Review daily and weekly inspection reports and project logs (Project Manager).
- Review and recommend for final processing Contractor pay requests (Airport Civil Engineer).

- Technical support for pre-construction planning activities and coordination (Senior Airport Engineer, Airport Civil Engineer, and Electrical Engineer).
- Technical support for flight procedure and flight check coordination with the FAA (Senior Airport Engineer, Airport Civil Engineer, Construction Manager – Electrical, and Electrical Engineer).
- PM / Technical Representative to participate in weekly construction meetings (Project Manager, Senior Airport Engineer, Airport Civil Engineer, and Electrical Engineer).

**Construction Management, Resident Engineering and Inspection** – Provide construction management, resident engineering, and inspection field representatives to perform job-site construction inspections, monitor and document construction progress, conformance with schedules, conformance with airfield operational requirements, and conformance with construction plans and specifications. The Construction Manager shall prepare daily activity reports documenting construction progress, including installation of material; number of workers, their hours and significant conversations, observations, and/or situations that affect the progress of the work. The Construction Manager shall be responsible for informing the Airport's Project Representative in writing as soon as possible of any defects or deficiencies, delays, contractor's deviation from the contract documents, and/or contractor's breach of the construction contract.

- Prepare and maintain separate logs for project correspondence, payroll information, submittals and shop drawings (by others), RFI's (by others), change proposals, change orders, daily and weekly inspection reports, material quantities and pay estimates.
- Take and distribute meeting notes. Provide a draft copy for comment and review within one day. Upon receiving comments, revise meeting notes incorporating applicable comments and changes. Distribute electronically via email to the FAA and all attendees within one day after receiving comments.
- Prepare weekly progress reports to the FAA.
- Review Contractor's payment requests including review of certified payrolls for compliance with the Contract Documents.
- Review Redlines with Contractor weekly and confirm they are current.

**Inspections, Punch list, Re-inspection** - Within 2 days from the Contractors notification that each construction phase is complete, prepare a punch list and completion schedule for review. Conduct re-inspections as necessary to ensure completion of punch list items.

**Preparation of Record Drawings (by others)** – Review submitted redlines for completeness. Prepare record drawings. Deliver one set of full size prints, two sets of 11" x 17" prints, and two electronic copies of record drawings in AutoCAD and PDF format for the project.

**Final Closeout Report** - Prepare the FAA Final Report and closeout documentation for the project and submit to the Airport and FAA upon completion.

#### **CONSTRUCTION MANAGEMENT AND INSPECTION DELIVERABLES**

- Meeting minutes for all meetings conducted.
- Project Logs of responses to RFI's, submittals, and change proposal requests.
- Daily construction activity reports (1 civil, 1 AFL and NAVAIDS).
- Weekly FAA reports.
- Change Order forms and documentation.
- AC pavement and structural concrete acceptance and control test results.
- Punch list and re-inspection reports.
- Final Closeout Report.

#### **CONSTRUCTION MANAGEMENT AND INSPECTION ASSUMPTIONS**

- The construction duration for the project is expected to continue over 5+ months or approximately 17 weeks. The start date used for calculating the level of effort in the field is May 5, 2015. It is anticipated that the end date for construction will be October 12, 2015. This construction schedule

used for estimating purposes is based on the schedule provided to URS October 8, 2014, by PSP Airport Administration Manager (Mark Jucht).

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END OF SCOPE



(PSP) Runway 13R-31L Rehabilitation Construction Management	Fitzepp / Project Manager		Construction Manager		Construction Manager - Electrical		Resident Engineer		Sr. Airport Engineer		Airport Civil and Electrical Engineer		Field Inspector 1 - Sr. Civil		Field Inspector 2 - AFL & NAVAIDS Elec Engineer		Field Inspector 3 - Civil Pestry		CADD / Drafting		Senior Administration		Project Administration - CM		URS				
	Rate	\$232.50	Rate	\$130.00	Rate	\$170.00	Rate	\$90.00	Rate	\$187.50	Rate	\$115.00	Rate	\$90.00	Rate	\$105.00	Rate	\$90.00	Rate	\$95.00	Rate	\$75.00	Rate	\$65.00	Rate		Rate		
	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours
Construction Management, Administration, Resident Engineering, and Inspection Services																													
Project Management, Monthly Progress Reports and Invoicing	122	\$30,690	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	80	\$6,000	0	\$0	0	\$0	212	\$36,690	
Project Engineering	0	\$0	64	\$8,320	0	\$0	0	\$0	416	\$78,000	248	\$28,520	0	\$0	0	\$0	0	\$0	0	\$0	160	\$15,200	0	\$0	0	\$0	888	\$130,040	
Construction Management and Administration	0	\$0	478	\$62,150	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	516	\$33,540	0	\$0	992	\$95,430	
Resident Engineering and Construction Inspection	0	\$0	0	\$0	0	\$0	1,048	\$94,320	0	\$0	0	\$0	896	\$87,640	0	\$0	200	\$20,100	0	\$0	0	\$0	0	\$0	0	\$0	2,034	\$193,060	
<b>Total Labor</b>	<b>122</b>	<b>\$30,690</b>	<b>542</b>	<b>\$70,200</b>	<b>0</b>	<b>\$0</b>	<b>1,048</b>	<b>\$94,320</b>	<b>416</b>	<b>\$78,000</b>	<b>248</b>	<b>\$28,520</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>\$0</b>	<b>160</b>	<b>\$15,200</b>	<b>0</b>	<b>\$0</b>	<b>80</b>	<b>\$6,000</b>	<b>516</b>	<b>\$33,540</b>	<b>0</b>	<b>\$0</b>	<b>4,128</b>	<b>\$445,210</b>	
CHRSUM 2,612																													
<b>SUBCONSULTANTS and ODC's</b>																													
Testing Laboratory - QA Acceptance																													
Lean Photometrics - Labor		\$0		\$0	80	\$13,600		\$0		\$0	80	\$9,200		\$0	1148	\$120,540		\$0		\$0		\$0		\$0		\$0	1,308	\$163,340	
Lean Photometrics - ODC																											\$33,048		
Removable ODC's																											\$125,330		
<b>Total Labor and ODC's</b>	<b>122</b>		<b>542</b>		<b>80</b>	<b>\$13,600</b>		<b>\$1,048</b>	<b>416</b>		<b>328</b>		<b>896</b>		<b>1,148</b>		<b>200</b>		<b>160</b>		<b>80</b>		<b>516</b>		<b>0</b>		<b>3,624</b>	<b>\$758,928</b>	

Subtotal: URS ODC Expenses - Construction	Time	# Staff	Unit/ Staff	Air Ground	Per Diem	Vehicle	Total
Site Visits and Weekly Construction Progress Meetings (Weeks)	15	4	1	\$600	\$0		\$48,000
Per Diem - Federal Rate	115	2	1	\$171			\$39,330
Construction Vehicles - 2 ea for 6 months (Monthly paying fuel and maint)	6	2	1			\$1,500	\$18,000
Consumables Non-Labor (Etc)							\$5,000
Reprographics and Document Control							\$25,000
							<b>\$135,330</b>

33