



**INVITATION FOR BID IFB 21-01**

**ROADSIDE AND TRANSIENT MAINTENANCE**

**BID DUE DATE: TUESDAY, OCTOBER 27, 2020 – 3:00 P.M.**

**TABLE OF CONTENTS:**

<b><u>THIS INVITATION FOR BID CONSISTS OF THE FOLLOWING:</u></b>	<b><u>PAGE</u></b>
TABLE OF CONTENTS .....	1
NOTICE INVITING BIDS.....	2
BIDDER'S CHECK LIST .....	3
TERMS AND CONDITIONS.....	4-7
SPECIFICATIONS .....	8-25
ATTACHMENT "A" <u>PAGE 26 MUST BE SIGNED</u> .....	26
ATTACHMENT "B" CONFLICT OF INTEREST & NON-DISCRIMINATION CERTIFICATION <u>PAGE 27 MUST BE SIGNED</u> .....	27
ATTACHMENT "C" PUBLIC INTEGRITY DISCLOSURE FORM <u>PAGE 31 MUST BE SIGNED</u> .....	28-32
BID PROPOSAL PAGE, <u>PAGE 35 MUST BE SIGNED</u> .....	33-35
EXHIBIT "A" – REFERENCES .....	36
EXHIBIT "B" – AFFIDAVIT OF NON-COLLUSION, <u>PAGE 37 MUST BE NOTARIZED</u> .....	37
BIDDERS GENERAL INFORMATION .....	38-39
BID BOND FORM - .....	40
WORKERS COMPENSATION CERTIFICATE –.....	41
SUMMARY OF INSURANCE -.....	42-44
SAMPLE CONTRACT AGREEMENT .....	45-68

**NO RESPONSIBILITY WILL ATTACH TO ANY OFFICER FOR THE PREMATURE OPENING OF OR THE FAILURE TO OPEN A BID NOT PROPERLY ADDRESSED AND IDENTIFIED.**

**STREET ADDRESS:**

City of Palm Springs Procurement & Contracting  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

**NOTICE INVITING BIDS  
IFB 21-01**

**PROVIDE ROADSIDE AND TRANSIENT MAINTENANCE**

**BID DUE DATE: TUESDAY, OCTOBER 27, 2020 – 3:00 P.M.**

**NOTICE IS HEREBY GIVEN** that the City of Palm Springs, California, is soliciting bids from qualified contractors to:

**Roadside and Transient Maintenance**

Provide roadside maintenance cleanup and removal of transient camps throughout the City, retrieval of abandoned shopping carts, removal of items and debris dumped within the City limits, and maintain seven (7) assigned street routes located within the City of Palm Springs by policing and litter pick-up to include the removal of paper, glass, trash, vegetation, and other accumulated debris from City streets, storm drains and right-of-ways.

Bids will be received until **Tuesday, October 27, 2020 at 3:00 P.M., local time** at the Office of Procurement and Contracting, 3200 Tahquitz Canyon Way, Palm Springs, California, 92262, at which time they will be publicly opened and read in the Procurement and Contracting Office. No Bid will be considered unless it is made on a bid form furnished by the City. Bids must be submitted in sealed envelopes and either hand delivered or mailed to the address above.

Each Bid must be accompanied by cash, a certified or cashier's check or Bidder's bond on the prescribed form and made payable to the City of Palm Springs for an amount equal to at least ten percent (10%) of the amount Bid (maximum award value). Such guaranty shall be forfeited should the Bidder to whom the Work is awarded fail to furnish the required proof of insurance and enter into a Purchase Order Contract with the City within the period of time provided by the IFB's requirements

The City of Palm Springs reserves the right to reject any or all bids and to waive any informality or technical defect in a bid.

The receiving time in the Procurement and Contracting Office will be the governing time for acceptability of Bids. Telegraphic and telephonic Bids will not be accepted. It is the responsibility of the Bidder to see that any Bid sent through the mail, or by any other delivery method, shall have sufficient time to be received by the Procurement and Contracting Office prior to the Bid Opening Time. Late Bids will be returned to the Bidder unopened.

**Availability of Documents:** Bid Documents and Specifications may be obtained from the Procurement Office by calling (760) 322-8374 or via the Internet at the following address: <http://www.palmspringsca.gov> click on "Government", "Departments" and go to "Procurement", "Open Bids".

NOTE: If you downloaded this bid via the internet at the address above, contact Leigh Gileno, Procurement & Contracting Manager – Acting, via email at [Leigh.Gileno@palmspringsca.gov](mailto:Leigh.Gileno@palmspringsca.gov) to be placed on the bidders list for this specific project and provide your company name, contact person, contact email address, office address, office phone and alternate phone (mobile). Failure to be placed on the bidders list as stated above may result in not receiving addenda to the IFB. \*Note – Being placed on the vendor list for this specific project is a separate process and not the same as registering online in our general vendor database.

**Leigh Gileno**

Procurement & Contracting Manager, Acting  
September 23, 2020

**INVITATION FOR BIDS (IFB 21-01)  
BIDDER'S CHECK LIST**

**INSTRUCTIONS TO BIDDER:**

**I GENERAL:**

Bidders are advised that notwithstanding any instructions or inferences elsewhere in this Invitation for Bid, only the documents shown and detailed on this sheet need be submitted with and made part of their Bid. Other documents may be required to be submitted after Bid time, but prior to award. Bidders are hereby advised that failure to submit the documents shown and detailed on this sheet MAY RENDER THE BID NON-RESPONSIVE.

**II REQUIRED DOCUMENTS FOR BID:**

Bids MAY NOT BE CONSIDERED if the following documents and/or attachments are not completely filled out and submitted with the Bid.

NOTE: ONLY THOSE ITEMS MARKED BY AN "X" ARE REQUIRED.

- X Attachment "A" Signature Authorization Page, Page 26 must be signed.
- X Attachment "B" Conflict of Interest & Non-Discrimination Certification, Page 27 must be signed.
- X Attachment "C" Public Integrity Disclosure Applicant Disclosure Form, Page 31 must be signed.
- X Bid Proposal page 35, must be manually signed.
- X Erasures or other changes made to the Bid Proposal Pages must be initialed by the person signing the Bid.
- X References form, page 36, must be completed.
- X Affidavit of Non-collusion by Contractor form, page 37, must be manually signed and countersigned by a Notary Public.
- X All Addenda issued shall be acknowledged in the space provided on Attachment "A", page 26. Failure to acknowledge all Addenda may render your Bid non-responsive.
- X Deviations from Specifications: It is understood that the services offered by the Bidder will meet all requirements of the Specifications in this Invitation for Bids, unless deviations there from are clearly indicated in an attachment headed "Deviations from Specifications" submitted and signed by the Bidder's authorized representative. In order for the Bid to be considered, an explanation must be made for each item in which a deviation is indicated, giving in detail the extent of, and reason for, the deviation. The City shall determine if a deviation is acceptable or not.

**CITY OF PALM SPRINGS  
IFB 21-01  
ROADSIDE AND TRANSIENT MAINTENANCE**

**TERMS AND CONDITIONS**

1. Bids must be submitted on Bid forms supplied by the Procurement and Contracting Office in a sealed envelope showing on the outside the name of the Bidder, Bid title, Bid number, time and date of opening.
2. Bids submitted may be withdrawn by written request received before the hour set for the opening. After that time, Bids may not be withdrawn by the Bidder for a period of ninety (90) days and at no time after award of Bid.
3. The City of Palm Springs reserves the right to award to the lowest responsive responsible bidder or to reject all bids, as it may best serve the interests of the City. Furthermore, the City reserves the right to reject the Bid of any Bidder who previously failed to perform properly, or complete on time, agreements of a similar nature, or to reject the Bid of a Bidder who is not in a position to perform such an agreement satisfactorily.
4. The City reserves the right to reject any or all Bids and to waive any informality or technical defect in a Bid, as it may best serve the interests of the City. The City also reserves the right to make such investigations as it deems necessary to determine the ability of the Bidder to perform the Work and the Bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any Bid if the evidence submitted by or investigation of such Bidder fails to satisfy the City that such Bidder is properly qualified to carry out the obligations in the bid documents and to complete the Work contemplated therein.
5. The decision of the Palm Springs City Council, or their designee if applicable, will be final. It is anticipated that City Council, or designee if applicable, will award the bid at their regularly scheduled meeting following the closing date for receipt of bids.
6. Bidder's signed bid and written acceptance by the City (purchase order) shall constitute an agreement.
7. Submission of a signed Bid will be interpreted to mean that Bidder has hereby agreed to all the terms and conditions set forth in all of the pages which make up this Invitation For Bid.
8. The price quoted by the Bidder in his/her bid shall include any and all applicable sales or use tax levied by the California Revenue and Taxation Code, and shall be exclusive of Federal Excise Taxes pursuant to the exemption of political subdivisions in the "Revenue Act of 1935" or any other acts of Congress.
9. Bidders may submit **only** ONE (1) bid in response to this IFB. You may NOT submit multiple bids.
10. When discrepancies occur between unit prices and extended amounts the unit prices shall govern.
11. Bidder will be required to file an Affidavit of Non-Collusion with their Bid. This shall be signed and sworn before a Notary Public.

12. **QUESTIONS:** Bidders, their representatives, agents or anyone else acting on their behalf are specifically directed **NOT** to contact any city employee, commission member, committee member, council member, or other agency employee or associate for any purpose related to this IFB other than as directed below. Contact with anyone other than as directed below **WILL** be cause for rejection of a Bid. No questions shall be answered via an addendum until after the walk through.

**ANY** questions, technical or otherwise, pertaining to this Invitation for Bid **must be submitted IN WRITING and directed ONLY to:**

Leigh Gileno – Procurement & Contracting Manager, Acting  
Procurement & Contracting Dept.  
3200 E. Tahquitz Canyon Way, Palm Springs CA 92263  
Or E-mailed to: [Leigh.Gileno@palmspringsca.gov](mailto:Leigh.Gileno@palmspringsca.gov)  
Or Faxed to: (760) 323-8238

Interpretations or clarifications considered necessary in response to such questions will be resolved by the issuance of formal Addenda to the IFB. **The deadline for all questions is 3:00P.M., Local Time, Tuesday, October 20, 2020.** Questions received after this date and time may not be answered. Only questions that have been resolved by formal written Addenda via the Division of Procurement and Contracting will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

**PLEASE NOTE THAT PALM SPRINGS CITY HALL IS CLOSED EVERY FRIDAY AND THEREFORE IS NOT ABLE TO ACCEPT, TIME OR DATE STAMP ANY SUBMITTALS/BIDS ON FRIDAYS (OR WEEKENDS). PLEASE TAKE THIS INTO CONSIDERATION WHEN DELIVERING A SUBMITTAL/BID BY THE DUE DATE AND TIME AS DEFINED IN THIS DOCUMENT.**

13. **Notice of Award:** After award of the Bid by the Palm Springs City Council if necessary, a Notice of Award letter and/or Purchase Order will be issued to the successful Bidder. The successful Bidder shall provide all Certificates of Insurance, Bonds, if required, within fourteen (14) calendar days.
14. **Business License:** The successful bidder will be required to be licensed in accordance with the City of Palm Springs Business License Ordinance, Municipal Code Chapter 3.40 through 3.96, entitled "Business Tax" and provide within fourteen (14) calendar days after Notice of Award.
15. **Performance:** Time is of the essence in the performance of the work. Performance schedule may be a factor in award of bid and may be cause for rejection, as determined by the City.
16. **Termination for Default:** The City may, by written notice of default to the vendor, terminate any resulting order in whole or in part should the vendor fail to make satisfactory progress, fail to deliver within time specified therein or fail to deliver in strict conformance to specifications and requirements set forth therein. In the event of such termination, the City reserves the right to purchase or obtain the supplies or services elsewhere, and the defaulting vendor shall be liable for the difference between the prices set forth in the terminated order and the actual cost thereof to the City. The prevailing market price shall be considered the fair repurchase price, If, after notice of termination of this contract under the provisions of this clause, it's determined for any reason that the Contractor was not in default under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause. The rights and remedies of City provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.
17. **Termination for Convenience:** The City may, by written notice stating the extent and effective date terminate any resulting order for convenience in whole or in part, at any time. The City shall

pay the vendor as full compensation for performance until such termination the unit or pro rate price for the delivered and accepted portion, and a reasonable amount, as costs of termination, not otherwise recoverable from other sources by the vendor as approved by the City, with respect to the undelivered or unaccepted portion of the order, provided compensation hereunder shall in no event exceed the total price. In no event shall the City be liable for any loss of profits on the resulting order or portion thereof so terminated. The rights and remedies of City provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under resulting order.

18. **Fiscal Year:** Obligation for payment of any contract beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.
19. **Affidavit of Non-Collusion and References:** Bidders are required to file an Affidavit of Non-Collusion with their Bid. This shall be signed and sworn before a Notary Public with a commission in the State of California. Bidders are also required to provide References. The forms are included in the Bid package as "Exhibits A and B".
20. **Bidder Responsibility:** The City of Palm Springs reserves the right to reject the Bid of any Bidder who previously failed to perform properly, or complete on time, agreements of similar nature, or to reject the Bid of a Bidder who is not in a position to perform such an agreement satisfactorily.
21. **Governing Law:** This contract shall be construed and interpreted according to the laws of the State of California.
22. **Bid Bond:** Each Bid must be accompanied by cash, a certified or cashier's check or Bidder's bond on the prescribed form and made payable to the City of Palm Springs for an amount equal to at least ten percent (10%) of the amount Bid (maximum award value of lump sum total). Such guaranty shall be forfeited should the Bidder to whom the work is awarded fail to furnish the required proof of insurance, bonds and enter into a Purchase Order Contract with the City within the period of time provided by the IFB's requirements.
23. **Performance Bond and Insurance:** ~~The requirements of a performance bond have been waived for this project. The successful Bidder shall furnish within 14 calendar days after Notice of Award, a Performance Bond in the sum of the amount of the Agreement. The successful Bidder shall maintain the validity and enforcement of said bond for the duration of the Contract. Also, the successful Bidder shall furnish within 14 calendar days after Notice of Award certificates of Insurance as per the instructions contained herein.~~
24. **Payment Bond: Payment/Labor and Materials Bond:** The successful Bidder shall furnish within 14 calendar days after Notice of Award, a Payment/Labor and Materials Bond in the sum of twenty-five thousand dollars (\$25,000). The successful Bidder shall maintain the validity and enforcement of said bond for the duration of the Contract.
25. **Local Preference:** Pursuant to the City of Palm Springs Local Preference Ordinance 1756, the term "Local Business" is defined as a vendor, contractor, or Consultant who has a valid physical business address located within the Coachella Valley, at least six months prior to bid or bid opening date, from which the vendor, contractor, or consultant operates or performs business on a day-to-day basis, and holds a valid business license by a jurisdiction located in the Coachella Valley. "Coachella Valley" is defined as the area between the Salton Sea on the south, the San Jacinto and Santa Rosa Mountains on the west, and the Little San Bernardino Mountains on the east and north. For the purposes of this definition, "Coachella Valley" includes the cities of Beaumont and Banning and the unincorporated areas between Banning and the City of Palm Springs. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address.

In the bidding of, or letting for procurement of, supplies, materials, and equipment, as provided in Ordinance No. 1756, the City may give a preference to Local Businesses in making such purchase or awarding such contract in an amount not to exceed five (5%) percent of the Local Business' total bid price, or \$15,000, whichever amount is lower. Total bid price shall include only the base bid price but also adjustments to that base bid price resulting from alternates requested in the Solicitation. In order for a Local Business to be eligible to claim the preference, the business MUST request the preference in the Solicitation response (see cost proposal pages) and provide a copy of its current business license from a jurisdiction in the Coachella Valley.

26. **Payment Terms** - The standard terms at the City of Palm Springs are Net 30 days.

27. It is understood that the services offered by the Bidder will meet all requirements of the specifications in this Invitation unless deviations therefrom are clearly indicated in an attachment titled "Exceptions to Specifications" submitted and signed by Bidder's authorized representative. In order for the Bid to be considered, an explanation must be made for each item in which an exception is taken, giving in detail the extent of the exception and the reason for which it is taken. The City of Palm Springs will be the sole judge as to whether any deviations or exceptions will be approved or accepted.

28. **Non-Discrimination Certification:** In connection with its performance under this Agreement, Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin ( *i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a "prohibited basis"). Contractor shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City's lawful capacity to enter this Agreement, and in executing this Agreement, Contractor certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Contractor activity, including but not 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; and further, that Contractor is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

Failure or refusal to enter into an Agreement as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for an annulment of the award. If the highest ranked Proposer refuses or fails to execute the Agreement, or negotiations are not successful, or the agreement is terminated, the City may, at its sole discretion, enter negotiations with and award the Contract to the second highest ranked Proposer, and so on.

29. **Other Public Agency "Piggyback Clause":** It is intended that any other public agency, at the mutual consent of both parties and consistent with the public agency's policies and procedures, be permitted to purchase under the terms submitted in response to this procurement. Any participating agency shall take sole responsibility for the placing of orders, arranging for delivery and or services, and making payments to the vendor, contractor, or consultant. The City of Palm Springs will not be liable or responsible for any obligations, including but not limited to financial responsibility, in connection with the participation by other public agencies.

## CITY OF PALM SPRINGS IFB 21-01

### ROADSIDE AND TRANSIENT MAINTENANCE

#### PURPOSE, SCOPE OF WORK, AND SPECIAL CONDITIONS:

1. **SCOPE OF WORK:** Under the direction of the City's Contract Administrator or their designee, and the Palm Springs Police Department, assist with cleanup and removal of transient camps throughout the City, retrieval of abandoned shopping carts, removal of items and debris dumped within the City limits, and maintain seven (7) assigned street routes located within the City of Palm Springs by policing and performing litter pick-up to include the removal of paper, glass, trash, vegetation, waste and other accumulated debris from City streets, storm drains and right-of-ways. Right-of-ways are defined as begin 10 feet from the centerline of road to the road edge in both directions. All routes should be completed one time each, during each ten (10) business day work period. Perform a City-wide palm frond, tree limb and sand route when directed by the City's Contract Administrator or their designee. The City of Palm Springs, does not allow the use of Glyphosate for weed abatement. All products used within city limits, must be non-toxic.

During normal work hours, respond within thirty (30) minutes to telephone requests from the City's Contract Administrator or their designee to remove debris or vegetation that is located in the streets or right-of-ways from events such as traffic accidents, illegal dumping, paint, diesel and oil spills, downed trees or limbs, vegetation, and rain and wind storms, transient camp cleanup (trash bedding and other personal effects) as directed by City's Contract Administrator. The Contractor must be prepared to respond to changing work assignments. (Example: being contacted to stop in the middle of a project or task and redirected to respond to a request by the City Contract Administrator, or their designee, to pick up an abandoned mattress or appliance, etc., and then immediately return to the previous assignment.)

Contractor shall maintain a legible log sheet of daily activities, hours worked and the specific locations of all work activities that will be turned into the City's Contract Administrator or their designee (log sheet will be provided by the City Contract Administrator) at the end of each work shift. All activities, tasks and duties performed shall be entered into the City's work order system by Contractor throughout the day, as tasks are completed and GIS locations provided when possible. Contractor shall provide smart phone, tablet, or laptop capable of entering, viewing, printing, processing and completing work orders. A cell phone number, for all Supervisors and Lead Workers is required, as well as full list of Contractors personnel available for emergency after-hours needs, shall be provided on a quarterly basis. Supervisor and Lead Worker phones must be "smart phones" capable of receiving work orders, photos and texts issued by the City Contract Administrator.

2. **WORK HOURS:** Regular work hours consist of 6:00 A.M. to 4:30 P.M. Sunday through Saturday, unless otherwise modified by City Contract Administrator or their designee. Any hours worked other than the regularly scheduled hours are considered "emergency call-out" hours, and will be scheduled only at the direction of the Contract Administrator or their designee.

Contractor has the right to modify the regular work hours/days upon 30 days written notice and approval by the City Contract Administrator; however, regular work hours will not exceed 10 hours per day or 40 hours per week, per employee.

Emergency call-out hours may be necessary in the case of downed trees, storm debris in right-of-ways, or any condition endangering the safety of the public. The Contractor must respond to an emergency call-out within one (1) hour. Hours worked on an emergency basis will be logged on a City provided 'Emergency over time' form, and will be attached on the Contractor's invoice as "emergency call-out hours".

Contractor shall make Lead Workers available for a weekly meeting with City Contract Administrator or their designee. Supervisor and/or Area Manager for Contractor shall be available for quarterly meetings with City Contractor Administrator or their designee.

Except in the case of an emergency call-out, there will be no work scheduled on days that the City is closed for holidays: New Year's Day, Martin Luther King Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.

3. PERSONNEL: Roadside Maintenance Crews shall consist of a minimum of a two-person crew with personnel capable of lifting up to 100 lbs. in weight each. Each crew member must be able to understand, read, and write English, possess an appropriate valid California Driver's License, and copies of valid California state driver's licenses shall be provided to the City Contract Administrator annually. Any new employees must provide proof of a valid California state driver's license within 48 hours of their first scheduled shift. One of the crew members will be designated as a lead worker and will be the primary point of contact to receive and implement instructions. To provide for continuity, rotation of individuals assigned to this program must be held to a minimum. All employees must have a working knowledge of how to use the equipment listed below.
4. MINIMUM EQUIPMENT NEEDED: Contractors are expected to own and include in pricing all hand tools, hand trucks, "Hudson style" compression sprayers, boom trucks, bobcats, trucks, and any other equipment necessary to provide the services required by this scope of work. The City will not pay additional equipment fees or rentals.

All vehicles must be Heavy Duty four-wheel drive vehicles equipped with flashing arrow signs (FAS), and caution beacons. A hauling bed or pull trailer with a capacity no less than 14 feet long, six feet wide, with side boards at least five feet high is required. Anticipated mileage is in excess of 2,000 miles per month per vehicle.

Small hand tools including but not limited to: loppers, clippers, hand saws, chainsaws, rakes, brooms, shovels, pitch forks, weed-eaters, hoes, wheel barrows and all employee safety and personal protective equipment, are to be provided by Contractor at all times. **Leaf blowers must be battery powered.**

Contractor is responsible for all traffic control and must meet CalTrans standards and practices. Each truck shall carry adequate traffic control devices such as cones, roadwork signs on barricades and delineators to perform assigned tasks. A minimum of 25 cones with reflective sleeves, 2 Road Work Ahead signs (36" x 36") on barricades and 2 Lane Closed Ahead (36" x 36") signs on barricades are required for each truck. Reflective roll up signs that are 48" x 48" with stands are acceptable.

Minimal required Personal Protective Equipment needed, but not limited to: Class 2 Safety Vests,

puncture proof disposable gloves, leather work gloves, reinforced work boots, safety glasses/goggles, face shields, dust masks, face coverings, headwear for sun protection, rain gear and appropriate hearing protection. Contractor shall provide documentation for all employee attended safety meetings and bi-annual IMSA CAL-TRANS standard 'Work Zone Temporary Traffic Control' certifications for Lead Workers and Supervisors.

5. WASTE DISPOSAL: The City will be responsible for disposal of waste material collected by the Contractor and no fee should be included in the bid for dump fees. The Contractor will be responsible for sorting of material into the proper bins provided at the City Corporate Yard, located at 425 North Civic Drive, Palm Springs. Contractor shall provide 2 City issued access badges to access the Corporate Yard. Any lost or damaged badges must be reported immediately to City Contractor Administrator and may result in a \$15.00 per badge replacement fee. Should the Contractor fail to dump the collected materials into the proper bins, Contractor will be responsible for payment of dump fees for the contaminated bin and repeat offenses could result in the Contractor becoming responsible for their own disposal arrangements, or termination of the Contract.
6. STORAGE FACILITIES: The City shall not provide any storage facilities for the Contractor. The City's Corporate Yard located at 425 N. Civic Drive is a secure facility, and shall not be used by the Contractor. The Contractor shall be responsible for obtaining an appropriate administrative office, storage yard, and secure parking lot for its equipment and vehicles. The location of its facility shall be within the City of Palm Springs, or subject to the approval of the City.
7. Parking:
  - 1) During the Contractor's daily operations and completion of the Work, the Contractor shall park their vehicles and equipment within designated public parking areas or work zones, in accordance with local and state laws, maintaining clear travel lanes for vehicular traffic. Overnight parking of the Contractor's vehicles and equipment shall be located within the Contractor's own secured storage facility, and not within any City facilities or public parking lots.
  - 2) The Contractor's vehicles and equipment shall not be parked or set in such a manner that they block pedestrian access or vehicular right-of-way except as required to comply with all safety standards of OSHA or CAL-OSHA.
8. Vehicles: The Contractor's vehicles used in performance of the services required hereunder shall be maintained in first class condition. Upon commencement of the services, the Contractor shall furnish and apply an appropriate logo on all vehicles to be used within the City identifying the Contractor's company name. The logo shall be prepared by the Contractor and submitted to the City for approval prior to use.

## Roadside Maintenance Routes

Street	From	To
<b>Route 1</b>		
Palm Canyon Dr	Vista Chino	Gene Autry Trail
Gateway Dr	Highway 111	Rosa Parks Rd
Rose Parks Rd	Indian Canyon Dr	Gateway Dr
Tramview Rd	Indian Canyon Dr	West End
<b>Route 2</b>		
Vista Chino	Gene Autry Trail	Whitewater Wash
El Mirador	Ave Caballeros	Sunrise Way
Tachevah Dr	Ave Caballeros	Sunrise Way
Amado Rd	Calle El Segundo	Sunrise Way
Baristo Rd	El Cielo Rd	Farrell Dr
<b>Route 3</b>		
Ramon Rd	La Mirada	Belardo Rd
Crossley Rd	Ramon Rd	Avenue 34
El Cielo Rd	Escoba Rd & Bike path	Sunny Dunes Rd
Ramon Rd	El Cielo (incl. medians)	San Luis Rey
Ramon Rd	San Luis Rey (so. Side)	Ramon Bridge
Mesquite Ave	Vella Rd	City Limit
San Luis Rey	Mesquite Ave	Ramon Rd
Sunny Dunes Rd	Gene Autry Trail	Crossley Rd
Camino Parocella	San Luis Rey	Gene Autry Trail
Indian Springs	Crossley Rd	Rio Blanco
Rio Blanco	Indian Springs	San Luis Rey
Public Rd	Sunny Dunes Rd	Camino Parocella
Vella Rd (west side)	Sunny Dunes Rd	Mesquite Ave
<b>Route 4</b>		
S. Palm Canyon Dr	E. Palm Canyon Dr	South End
Belardo Rd	Alejo Rd	Sunny Dunes Rd
Sunny Dunes Rd	S. Palm Canyon Dr	Belardo Rd
Alejo Rd	PS Interntnl. Airport	Vine Rd
Mesquite Ave	S. Palm Canyon Dr	West End
Bogert Trail	S. Palm Canyon Dr	Andreas Hills
LaVerne Way	Camino Real (S. side)	Calle Palo Fierro

Street	From	To
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**Route 5**

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Farrell Dr	Tamarisk Rd	Vista Chino
Sunrise Way	North End	Vista Chino
Ave Caballeros	Alejo Rd	Saturnino Rd
Ave Caballeros	Racquet Club Rd	Via Escuela
Calle Encillia	Alejo Rd	Ramon Rd
Calle El Segundo	Alejo Rd	Ramon Rd

**Route 6**

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Virginia Rd	San Carlos	San Rafael
Radio Rd	McCarthy	Indian Canyon Dr
Indian Canyon Dr	Vista Chino	Interstate 10
Indian Canyon Dr (W side)	Interstate 10	18 <sup>th</sup> Ave
Garnet Rd	East End	W. City Limit
20 <sup>th</sup> Ave	W. City Limit	Indian Canyon Dr
Dillon Rd	Melissa Lane	Diablo Rd
Tipton Rd	Highway 111	Interstate 10
Wendy Rd	Tipton Rd	North End
Salvia Rd	West End	East End
Gene Autry Trail	Interstate 10	Vista Chino
Executive Dr	Vista Chino	Via Escuela
Via Escuela	Executive Dr (N side)	Whitewater Club

**Route 7**

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Miscellaneous: Complaints, transient camp clean ups, traffic accidents, etc., as instructed by Supervisor.

**Route 8**

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Highway 111 (fence line) Gateway (E side) End of fence line

To be completed twice per calendar year as instructed by Supervisor.

**Palm Fronds**

---

To be completed as instructed by Supervisor; usually following adverse weather conditions; wind, rain, etc.

Palm Canyon Dr	Gateway	Farrell Dr
Indian Canyon Dr	Ramon Rd	Vista Chino
Tahquitz Canyon Way	Palm Canyon Dr	El Cielo
Cerritos Dr	Ramon Rd	Camino Parocella
Camino Parocella	Cerritos Dr	Sunrise Way
Frontage Road	Camino Parocella	Cerritos Dr

## DRAIN EASEMENTS

DESERT WAY & LAS PAMPAS WAY, NORTH SIDE OF INTERSECTION

NORTH END OF ORCHID TREE

NORTH END OF BURTON WAY

NORTH END OF SUNSET WAY

EAST END OF CALLE CONJERA

EAST END OF CALLE PAPAGAYO

QUINCY WAY, SOUTH SIDE OF STREET

MESQUITE & CERRITOS, NORTH SIDE OF INTERSECTION

PEBBLE BEACH & LAKESIDE DRIVE, SOUTH SIDE OF INTERSECTION

PASEO CAROLETA & CALLE PAUL, EAST SIDE OF INTERSECTION

ARNICO & NORLOTI, EAST SIDE OF INTERSECTION

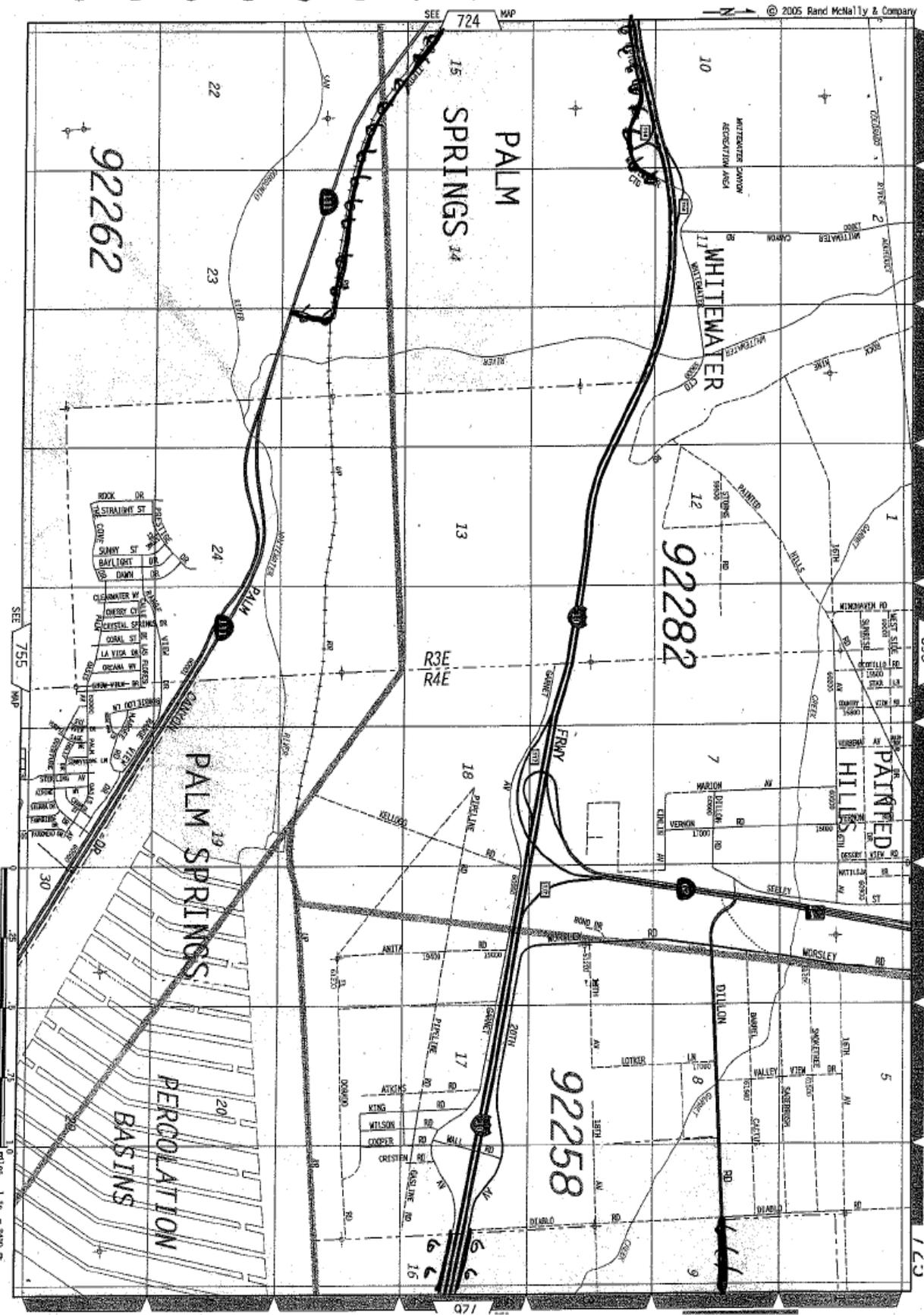
EASEMENT THAT RUNS NORTH TO SOUTH FROM VISTA CHINO TO EL  
CONQUISTADOR

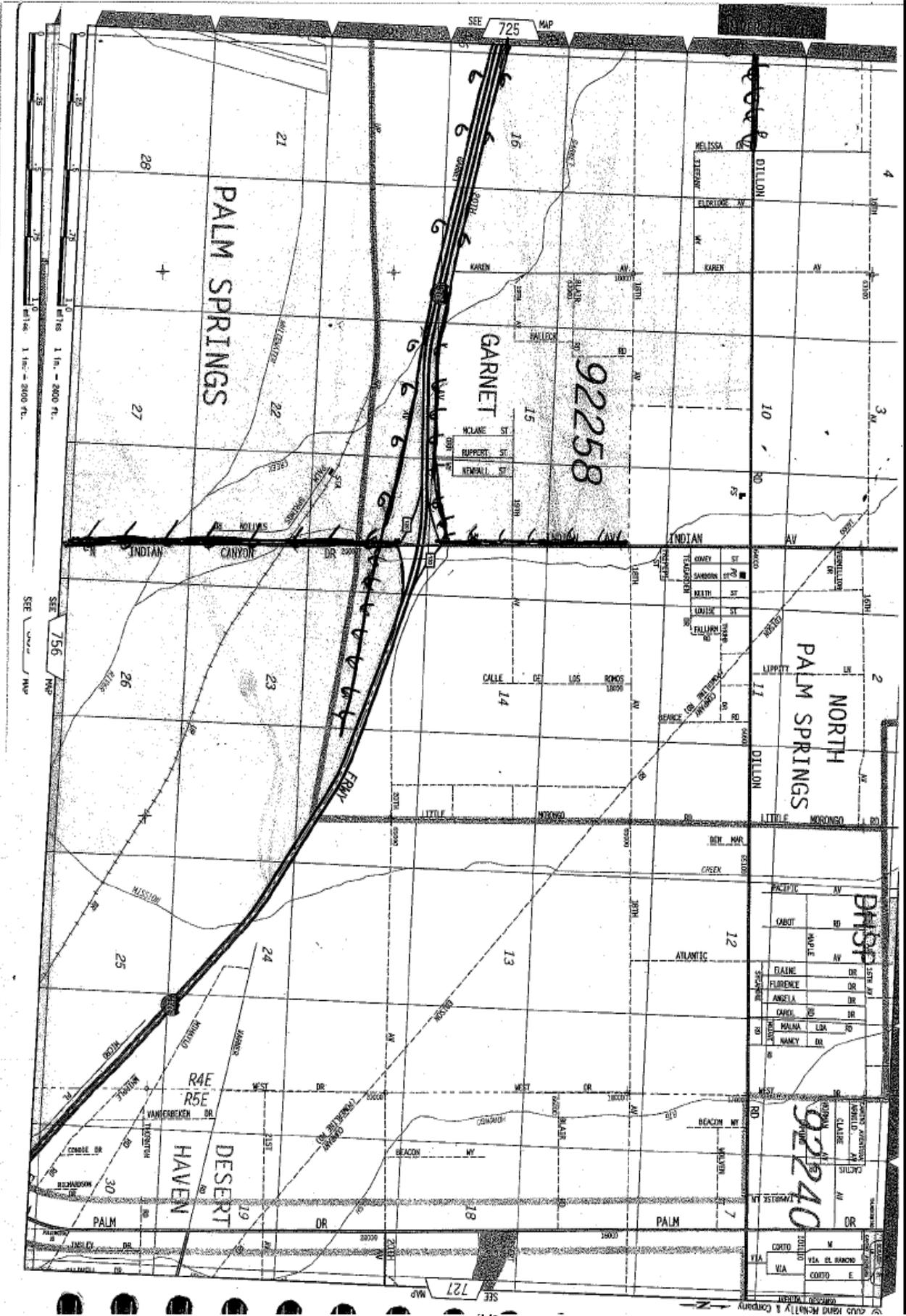
MESQUITE & COMPADRE, NORTH SIDE, FROM STREET TO END OF CEMENT

FEY NORTE TO CHIA OFF OF VISTA CHINO

CALETA WAY EAST OF HERMOSA EAST END  
JULIAN & JUANITA







SEE 725 MAP

SEE 727 MAP

PALM SPRINGS

GARNET

NORTH  
PALM SPRINGS

DESERT  
HAVEN

92258

92220

1 in. = 2000 ft.  
1 in. = 2000 ft.

SEE 756 MAP

SEE 755 MAP

92262

735  
745

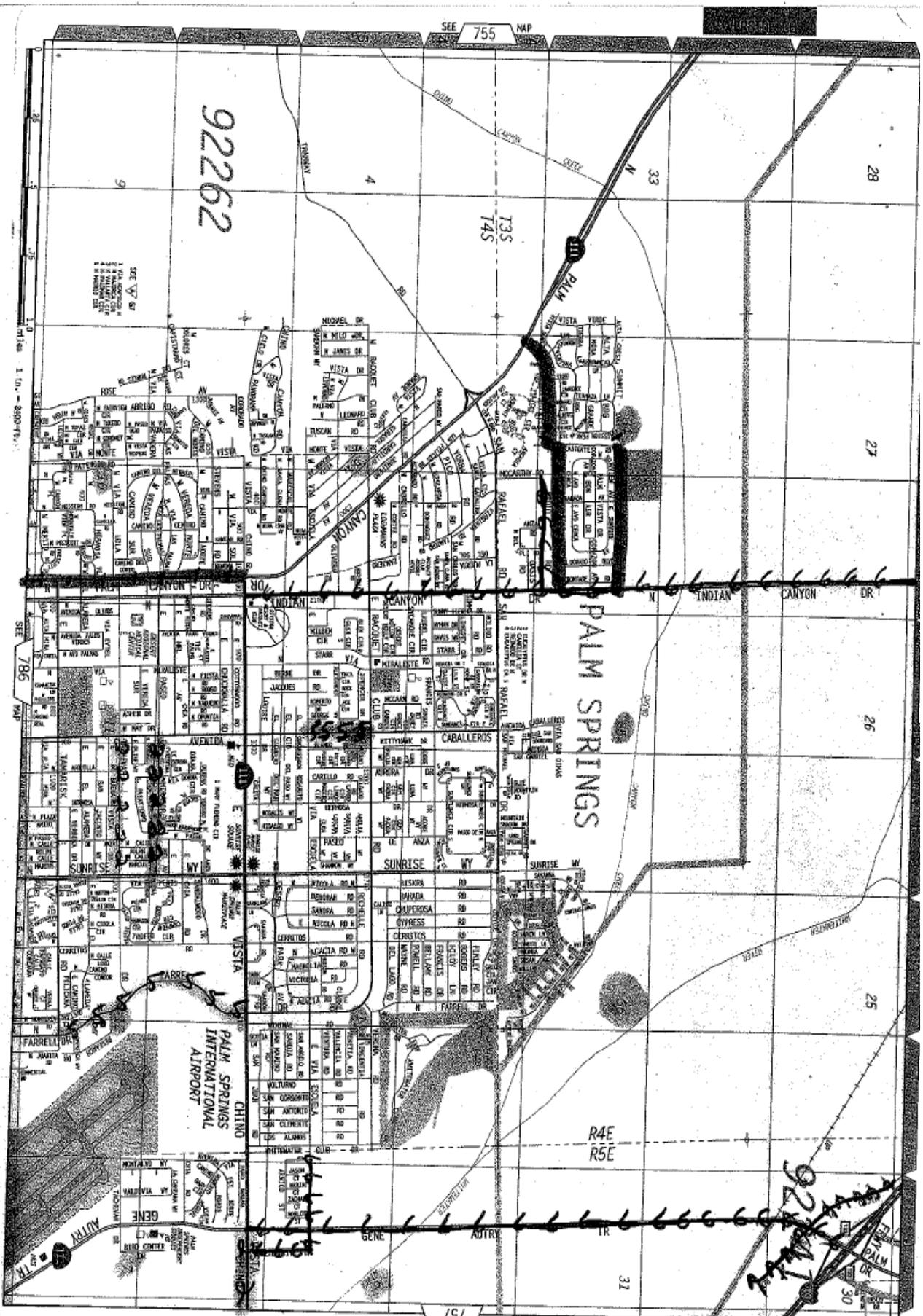
PALM SPRINGS

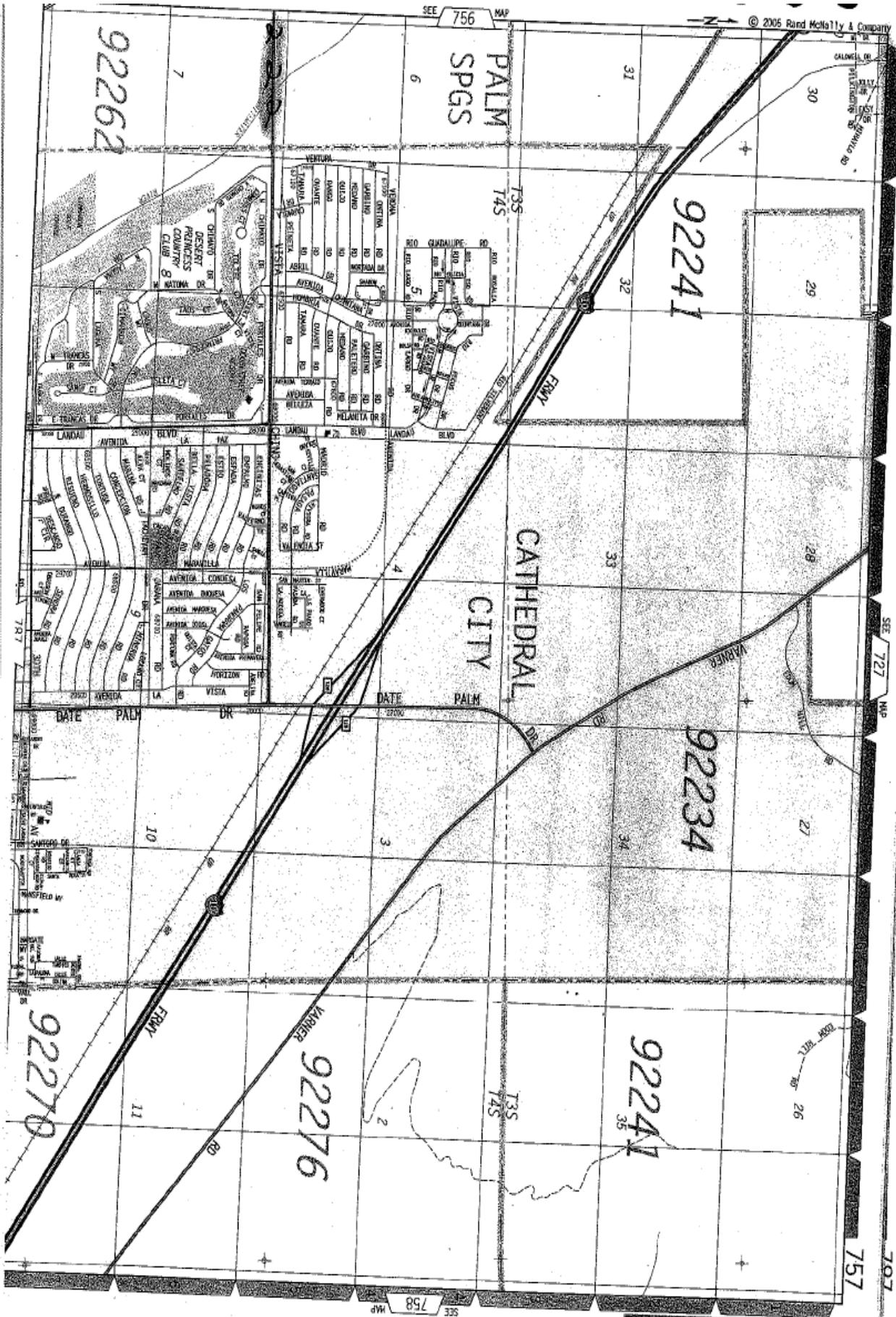
PALM SPRINGS  
INTERNATIONAL  
AIRPORT

92262

SEE 757 MAP

© 2005 Rand McNally & Company





© 2005 Rand McElly & Company

SEE 756 MAP

SEE 727 MAP

SEE 758 MAP

728

757

PALM SPGS

CATHEDRAL CITY

92262

92241

92234

92276

92241

92270

31

30

29

28

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26

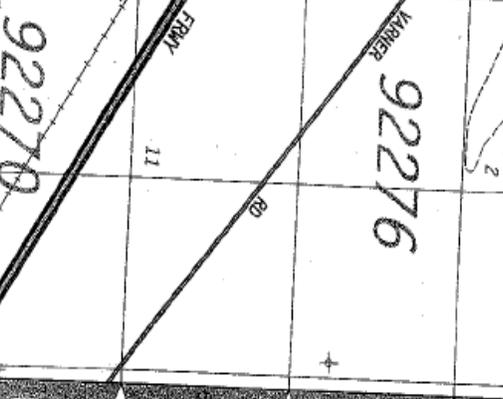
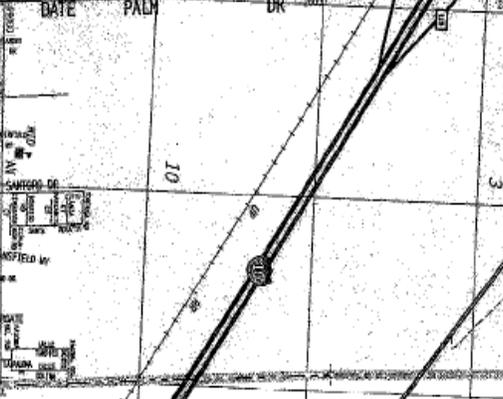
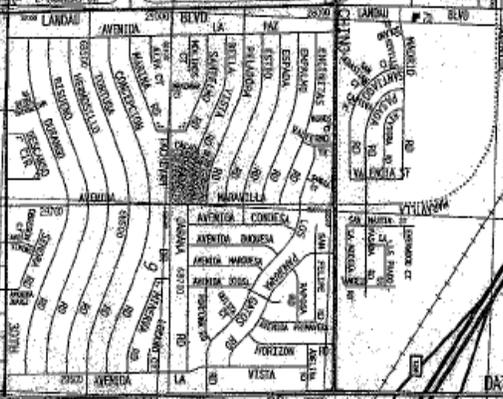
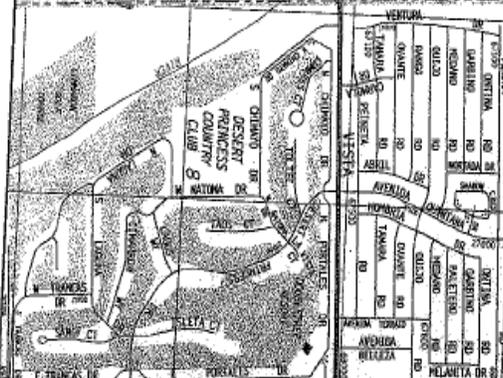
735

745

735

735

745





92264

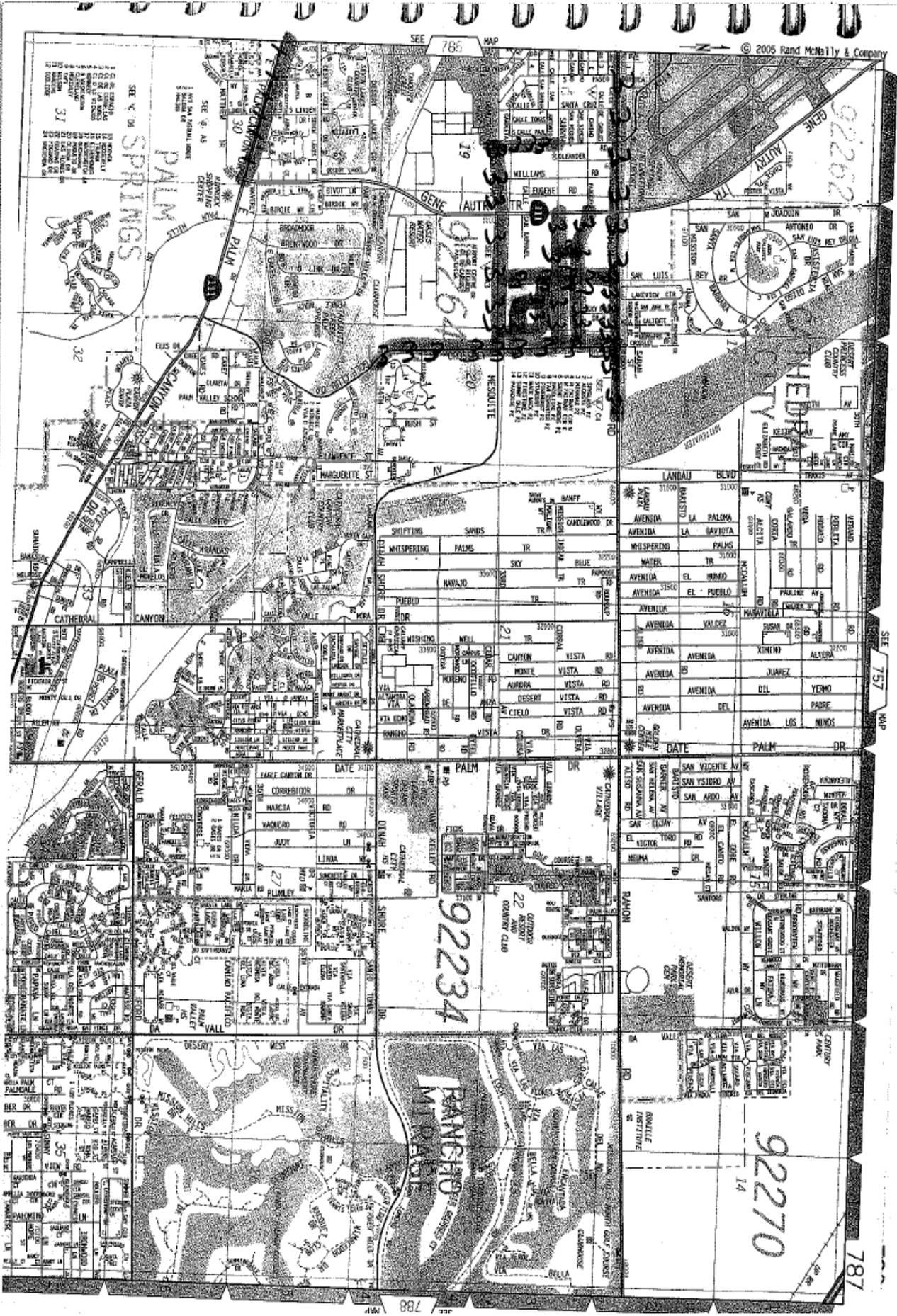
PALM SPRINGS

TANQUITZ FALLS

92262

1" = 2000 FT.

R4E  
R5E  
37



SEE 786 MAP

SEE 757 MAP

787

788

SPRINGS  
PALM

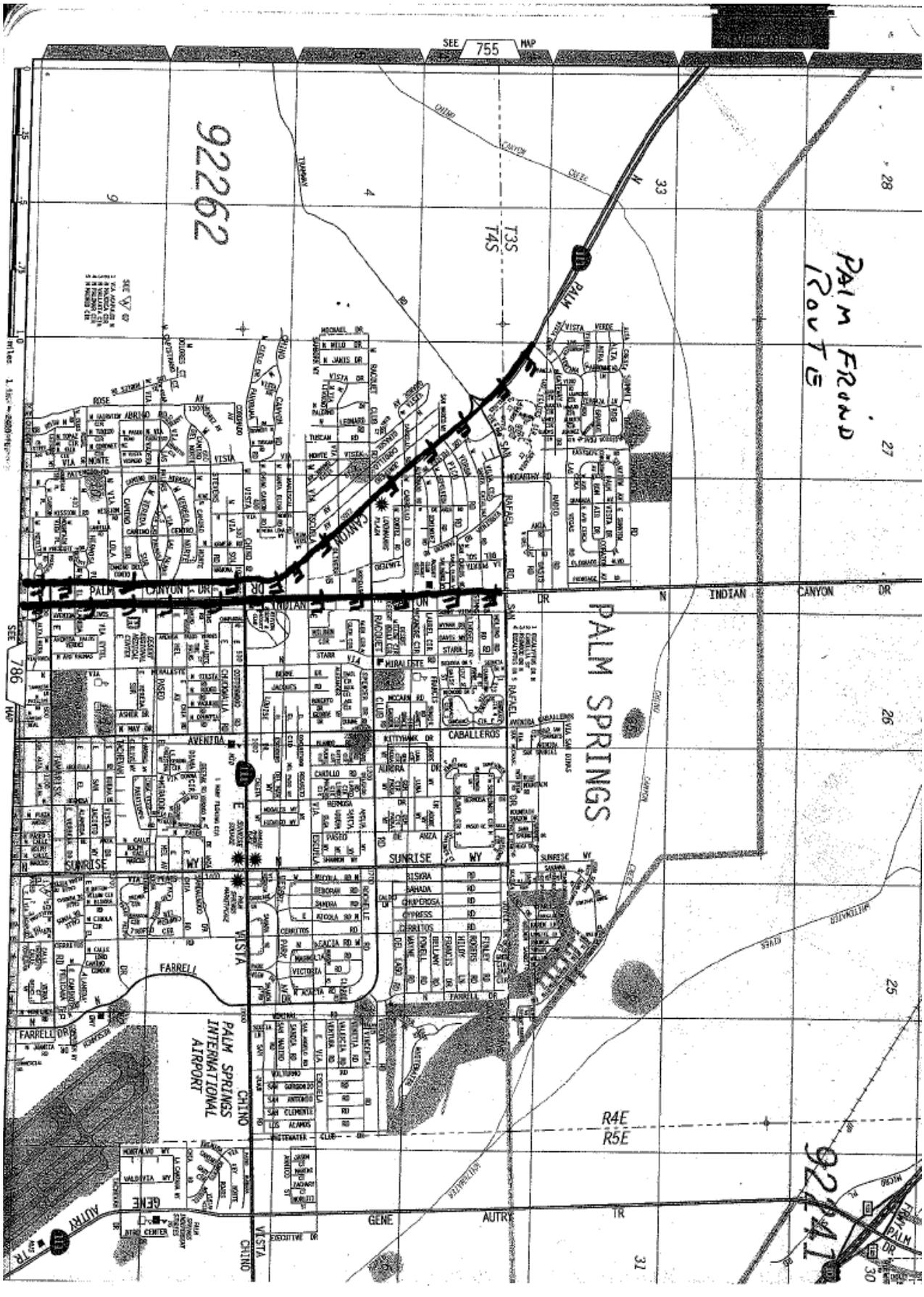
92262  
92264

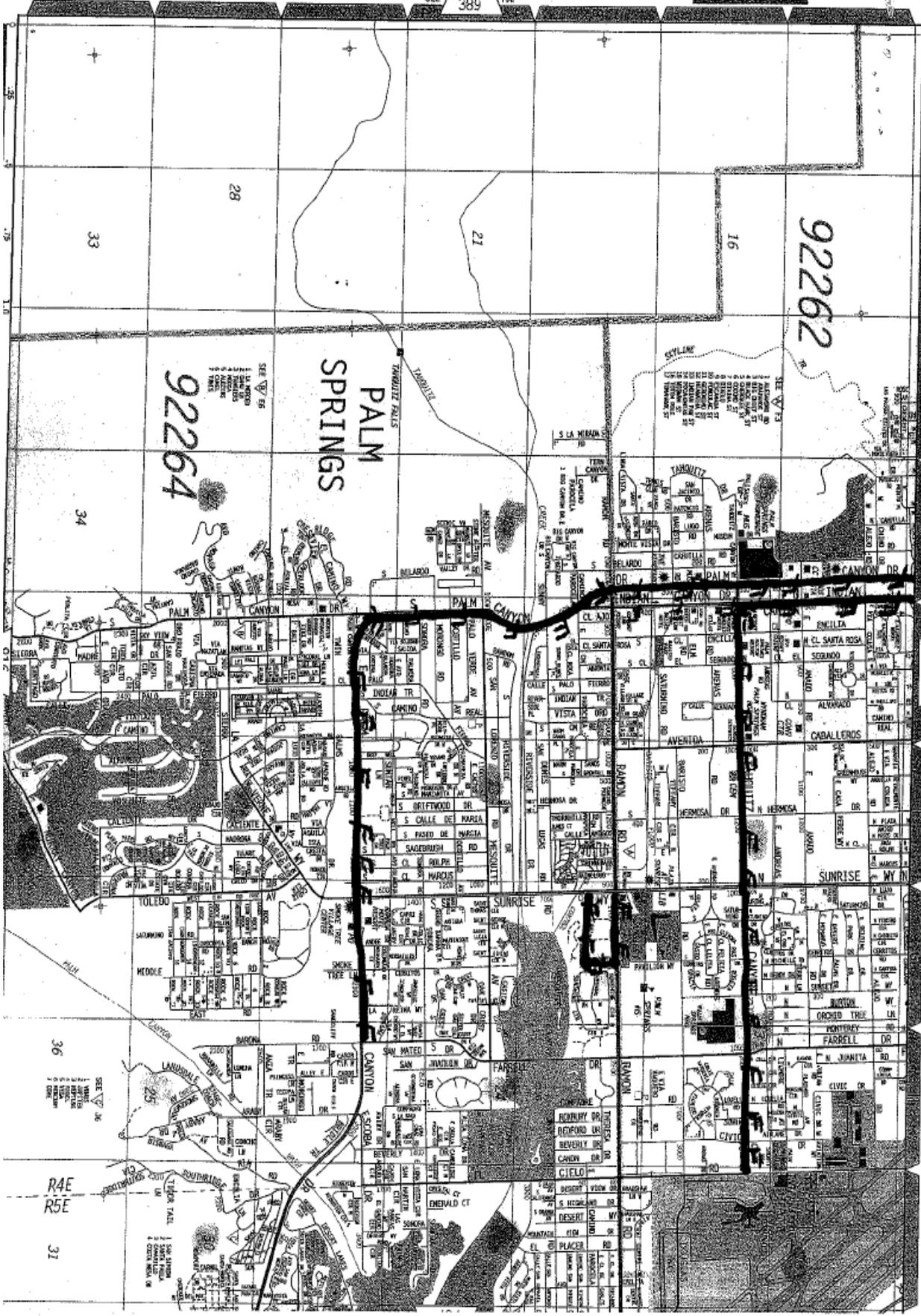
92234

92270

RANCHO MTD  
SAGE







92262

92264

PALM SPRINGS

R4E R5E

31

36

34

33

28

16

21

0

100

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300

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500

600

700

800

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28600

28700

28800

El Cielo & Baristo empty lot (North west corner)



Ramon & Indian Canyon empty lot (North east corner)



**ATTACHMENT "A"**  
**IFB 21-01 ROADSIDE AND TRANSIENT MAINTENANCE**

**\*NOTE: THIS FORM MUST BE COMPLETED AND INCLUDED WITH YOUR BID\***

**SIGNATURE AUTHORIZATION**

NAME OF COMPANY (BIDDER): \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_

A. **I hereby certify that I have the authority** to submit this Bid to the City of Palm Springs for the above listed individual or company. I certify that I have the authority to **bind** myself/this company in a contract should I be successful in my Bid.

\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
SIGNATURE AND DATE

B. The following information relates to the legal Bidder listed above, whether an individual or a company. Place check marks as appropriate:

1. If successful, the contract language should refer to me/my company as:

- An individual;
- A partnership, Partners' names: \_\_\_\_\_  
\_\_\_\_\_
- A company;
- A corporation If a corporation, organized in the state of: \_\_\_\_\_

My tax identification number is: \_\_\_\_\_

**Please check below IF your firm qualifies as a Local Business as defined in the IFB:**

A Local Business (licensed within the jurisdiction of the Coachella Valley). Copy of current business license **is required** to be attached to this document.

**ADDENDA ACKNOWLEDGMENT:**

Acknowledgment of Receipt of any Addenda issued by the City for this IFB is required by including the acknowledgment with your bid. Failure to acknowledge the Addenda issued may result in your bid being deemed non-responsive.

**In the space provided below, please acknowledge receipt of each Addendum: Addendum(s) # \_\_\_\_\_ is/are hereby acknowledged.**

**LATE BIDS WILL NOT BE ACCEPTED – NO EXCEPTIONS!**

**IFB 21-01**

**ATTACHMENT "B"**

**\*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH YOUR BID  
CITY OF PALM SPRINGS, CA**

**CONFLICT OF INTEREST AND NON-DISCRIMINATION CERTIFICATION**

**Conflict of Interest.** Bidder acknowledges that no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement nor shall Bidder enter into any agreement of any kind with any such officer or employee during the term of this Agreement and for one year thereafter. Bidder warrants that Bidder 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.

**Covenant Against Discrimination.** In connection with its performance under this Agreement, Bidder shall not discriminate against any employee or applicant for employment because of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin (*i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a "prohibited basis"). Bidder shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City's lawful capacity to enter this Agreement, and in executing this Agreement, Bidder certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Bidder activity, including but not 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; and further, that Bidder is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

NAME OF BIDDER/VENDOR: \_\_\_\_\_

NAME and TITLE of Authorized Representative:

(Print) \_\_\_\_\_

Signature and Date of Authorized Representative:

(Sign) \_\_\_\_\_ (Date) \_\_\_\_\_

## ATTACHMENT "C"

### CITY OF PALM SPRINGS PUBLIC INTEGRITY DISCLOSURE (INSTRUCTIONS FOR APPLICANTS)

#### Who Must File?

Applicants that are NOT a natural person or group of natural people that will be identified on the application, and seek a City approval determined by a vote of City officials. Examples include corporations, limited liability companies, trusts, *etc.* that seek a City Council approval, or an approval by one of the City's board or commissions.

#### Why Must I File?

The City of Palm Springs Public Integrity Ordinance advances transparency in municipal government and assists public officials in avoiding conflicts of interest. The City's Public Integrity Ordinance, codified in Chapter 2.60 of the municipal code, reflects the City's interest in ensuring that companies (and other legal entities that are not natural people) doing business in the community are transparent and make disclosure as to their ownership and management, *and* further that those companies disclose the identity of any person, with an ownership interest worth two thousand dollars (\$2,000) or more, who has a material financial relationship with any elected or appointed voting City official, or with the City Manager or City Attorney.

***Note: A material financial relationship is a relationship between someone who is an owner/investor in the applicant entity and a voting official (or the City Manager or City Attorney), which relationship includes any of the following:***

- (1) the owner/investor and the official have done business together during the year prior to the application;*
- (2) the official has earned income from the owner/investor during the year prior to the filing of the application;*
- (3) the owner/investor has given the official gifts worth fifty dollars (\$50) or more during the year prior to the filing of the application; or*
- (4) the official might reasonably be anticipated to gain or lose money or a thing of value, based upon the owner/investor's interest in the applicant entity, in relation to the application's outcome.*

#### When Must I File?

You must file this form with the Office of the City Clerk at the same time when you file your application for a City approval determined by a vote of City officials, whether elected or appointed.

#### What Must I Disclose?

- A. The names of all natural persons who are officers, directors, members, managers, trustees, and other fiduciaries serving trusts or other types of organizations (attorneys, accountants, *etc.*).

***Note: (1) only trusts or other organizations that are not the fiduciaries, (2) if a second entity that is not a natural person serves the applicant entity (e.g., as a member of an applicant LLC), then all officers,***

directors, members, managers, trustees, etc., of the second entity must be disclosed).

- B. The names of persons owning an interest with a value of two thousand dollars (\$2,000) or more who have a material financial relationship with an elected or appointed City official who will vote on the applicant's application, or with the City Manager or City Attorney.

**What if I Have Questions?**

If you have any questions about how to complete this form, please contact: City Attorney, Jeff Ballinger (email: [Jeff.Ballinger@palmspringsca.gov](mailto:Jeff.Ballinger@palmspringsca.gov))

**PENALTIES**

Falsification of information or failure to report information required to be reported  
may subject you to administrative action by the City.

***\*There are some additional supplementary instructions with an example following the form should you need further clarification.***



**PUBLIC INTEGRITY DISCLOSURE  
APPLICANT DISCLOSURE FORM**

1. <b>Name of Entity</b>
2. <b>Address of Entity (Principle Place of Business)</b>
3. <b>Local or California Address (if different than #2)</b>
4. <b>State where Entity is Registered with Secretary of State</b> <i>If other than California, is the Entity also registered in California?</i> <input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>
5. <b>Type of Entity</b> <input type="checkbox"/> <b>Corporation</b> <input type="checkbox"/> <b>Limited Liability Company</b> <input type="checkbox"/> <b>Partnership</b> <input type="checkbox"/> <b>Trust</b> <input type="checkbox"/> <b>Other (please specify)</b>
6. <b>Officers, Directors, Members, Managers, Trustees, Other Fiduciaries (please specify)</b> <i>Note: If any response is not a natural person, please identify all officers, directors, members, managers and other fiduciaries for the member, manager, trust or other entity</i>  _____ <input type="checkbox"/> <b>Officer</b> <input type="checkbox"/> <b>Director</b> <input type="checkbox"/> <b>Member</b> <input type="checkbox"/> <b>Manager</b> [name]  <input type="checkbox"/> <b>General Partner</b> <input type="checkbox"/> <b>Limited Partner</b> <input type="checkbox"/> <b>Other</b> _____  _____ <input type="checkbox"/> <b>Officer</b> <input type="checkbox"/> <b>Director</b> <input type="checkbox"/> <b>Member</b> <input type="checkbox"/> <b>Manager</b> [name]  <input type="checkbox"/> <b>General Partner</b> <input type="checkbox"/> <b>Limited Partner</b> <input type="checkbox"/> <b>Other</b> _____  _____ <input type="checkbox"/> <b>Officer</b> <input type="checkbox"/> <b>Director</b> <input type="checkbox"/> <b>Member</b> <input type="checkbox"/> <b>Manager</b> [name]  <input type="checkbox"/> <b>General Partner</b> <input type="checkbox"/> <b>Limited Partner</b> <input type="checkbox"/> <b>Other</b> _____

<b>7. Owners/Investors with a 5% beneficial interest in the Applicant Entity or a related entity</b>	
<b>EXAMPLE</b>	
<b>JANE DOE</b>	<b>50% ABC COMPANY, Inc.</b>
<b>[name of owner/investor]</b>	<b>[percentage of beneficial interest in entity and name of entity]</b>
<b>A.</b>	
<b>[name of owner/investor]</b>	<b>[percentage of beneficial interest in entity and name of entity]</b>
<b>B.</b>	
<b>[name of owner/investor]</b>	<b>[percentage of beneficial interest in entity and name of entity]</b>
<b>C.</b>	
<b>[name of owner/investor]</b>	<b>[percentage of beneficial interest in entity and name of entity]</b>
<b>D.</b>	
<b>[name of owner/investor]</b>	<b>[percentage of beneficial interest in entity and name of entity]</b>
<b>E.</b>	
<b>[name of owner/investor]</b>	<b>[percentage of beneficial interest in entity and name of entity]</b>

**I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.**

Signature of Disclosing Party, Printed Name, Title	Date
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## City of Palm Springs, CA.

### Business Disclosure Supplementary Instructions

In an effort to ensure we capture the required business entity information in accordance with the attached instructions, we provide you these supplementary instructions to clearly identify the required information, and the format the information should be provided.

If you, as the applicant, are a business entity (i.e. a corporation or limited liability company), and it is also comprised of other business entities as its members or having a financial interest, all other such business entities must also be disclosed, including those entities other business entities, if any.

Ultimately, the City's disclosure document (attached) requires a listing identifying all natural persons having any financial interest over 5% of the business entities (and any other business entities comprising your business entity).

**As an example, Applicant is:** Acme Brothers, Inc., a California corporation, whose officers are: John Doe, Jill Doe, and Jay Doe, which is owned 50% by Acme Brothers, LLC, a California limited liability company, and John Doe (25% interest) and Jill Doe (25% interest). Acme Brothers, LLC, is managed by Acme Brothers 2, Inc., a California corporation, whose officers are: George Doe, Bill Doe, and Jane Doe, which is owned 100% by Acme Brothers 2, LLC, a California limited liability company, which is managed by George Doe, with George Doe and Jane Doe having 50% interest each.

#### **The full business entity disclosure in this example would resemble the following:**

1. Acme Brothers, Inc., a California corporation
  - a. Officers: John Doe, Jill Doe, and Jay Doe
  - b. Ownership:
    - i. 50% Acme Brothers, LLC, a California limited liability company
    - ii. 25% John Doe
    - iii. 25% Jill Doe
2. Acme Brothers, LLC, a California limited Liability Company
  - a. Managers: Acme Brothers 2, Inc., a California corporation
  - b. Ownership: 100% Acme Brothers 2, Inc., a California corporation
3. Acme Brothers 2, Inc., a California corporation
  - a. Officers: George Doe, Bill Doe, and Jane Doe
  - b. Ownership: 100% Acme Brothers 2, LLC, a California limited liability company
4. Acme Brothers 2, LLC, a California limited Liability Company
  - a. Managers: George Doe
  - b. Ownership:
    - i. 50%

**BID SCHEDULE/PRICING PAGES (IFB 21-01)**

**PROVIDE ROADSIDE AND TRANSIENT MAINTENANCE**

**DUE: TUESDAY, OCTOBER 20, 2020 AT 3:00 P.M. LOCAL TIME**

Bidders' signed bid and written acceptance by the City shall constitute an agreement and has hereby agreed to all the terms and conditions set forth in all of the sheets which make up this invitation.

Responding to an Invitation For Bids IFB 21-01 to provide roadside maintenance for assigned street routes located within the City of Palm Springs, the undersigned bidder proposes and agrees to provide the services and work in accordance with the specifications. I/We will accept as full payment therefore the following amount. NOTE: BIDDERS MUST COMPLETE SCHEDULE "A", "B", "C" AND SCHEDULE "D".

Note: Offeror should state the hourly rate for each level of personnel provided for in this Contract and which will apply to all work of the Contract. The hourly rate shall constitute the sole basis for payment and include all associated costs or charges i.e, vehicle, supplies, Smart Phone, PPE, insurance, uniforms, (not all inclusive).

**SCHEDULE "A"**: Rate for Roadside Maintenance work based on two separate, two-man crews consisting of one Lead Worker and one Worker, each working 10 hours per day, 40 hours per week, to provide seven day a week coverage and including all associated costs.

<u>Title:</u>	<u>Unit Cost</u>	<u>Annual Hours</u>	<u>Annual Cost</u>
Lead Worker:	_____ per/hr	X 2080 hrs	\$ _____
Worker:	_____ per/hr	X 2080 hrs	\$ _____
Vehicle & Supplies:	_____ per/day	197 days	\$ _____
SUBTOTAL			\$ _____

**SCHEDULE "B"**: Rate for Emergency Call Out, based on an estimate of 70 hours annually and based on a two man crew consisting of one Lead Worker and one Worker, and including all associated costs.

**OVERTIME HOURS:**

<u>Title:</u>	<u>Unit Cost</u>	<u>Annual Hours</u>	<u>Annual Cost</u>
Lead Worker:	_____ per/hr	X 35 hrs	\$ _____
Worker:	_____ per/hr	X 35 hrs	\$ _____
Vehicle & Supplies:	_____ per/day	1 day	\$ _____
SUBTOTAL			\$ _____

**HOLIDAY HOURS:**

<u>Title:</u>	<u>Unit Cost</u>	<u>Annual Hours</u>	<u>Annual Cost</u>
Lead Worker:	per/hr	X 10 hrs	\$
Worker:	per/hr	X 10 hrs	\$
Vehicle & Supplies:	per/day	1 days	\$
SUBTOTAL			\$

**SCHEDULE "C":** Rate for Transient Camp and Shopping Cart Clean-up work based on a two-man crew consisting of one Lead Worker and one Worker, each working 10 hours per day, 40 hours per week, and including all associated costs.

<u>Title:</u>	<u>Unit Cost</u>	<u>Annual Hours</u>	<u>Annual Cost</u>
Lead Worker:	per/hr	X 2080 hrs	\$
Worker:	per/hr	X 2080 hrs	\$
Vehicle & Supplies:	per/day	197 days	\$
SUBTOTAL			\$

**SCHEDULE "D":** Rate for Emergency Call Out, based on an estimate of 70 hours annually and based on a two man crew consisting of one Lead Worker and one Worker, and including all associated costs.

**OVERTIME HOURS:**

<u>Title:</u>	<u>Unit Cost</u>	<u>Annual Hours</u>	<u>Annual Cost</u>
Lead Worker:	per/hr	X 35 hrs	\$
Worker:	per/hr	X 35 hrs	\$
Vehicle & Supplies:	per/day	1 day	\$
SUBTOTAL			\$

**HOLIDAY HOURS:**

<u>Title:</u>	<u>Unit Cost</u>	<u>Annual Hours</u>	<u>Annual Cost</u>
Lead Worker:	per/hr	X 10 hrs	\$
Worker:	per/hr	X 10 hrs	\$
Vehicle & Supplies:	per/day	1 day	\$
SUBTOTAL			\$

**GRAND TOTAL OF BID SCHEDULES "A" and "B" :**

Total Amount in Words : \_\_\_\_\_

Total Amount in Figures: \$ \_\_\_\_\_

It is understood and agreed that this Bid may not be withdrawn until sixty (60) days from the date of the opening thereof, and at no time after award of Bid. Prices to remain fixed for initial contract period of 3 years.

**PRICING FOR INITIAL 3 YEAR TERM AND CPI ADJUSTMENTS FOR OPTIONAL RENEWALS:**

For the initial three (3) years of the Agreement term, the Unit Pricing shall remain fixed. For optional years 4 and 5, Contractor may request a price adjustment not to exceed the Bureau of Labor Statistic's Consumer Price Index (CPI) for the LA/Riverside/Anaheim region for the prior 12 month period effective on the anniversary date. Optional renewal years 4 and 5, and any associated CPI increase, are at the mutual consent of the City and the Contractor.

**NOTE: This page MUST be manually signed.**

Certified by: \_\_\_\_\_

Signature of Authorized Person

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**“EXHIBIT A”**

**REFERENCES**

The City is seeking a qualified contractor who has the experience and capability to deliver Roadside and Transient Maintenance as per the specifications contained herein. A minimum of three (3) references shall be submitted below with the bid, including contact name and phone number, for projects of a similar scope to this Invitation for Bids.

1) Name of contractor or agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone # \_\_\_\_\_

Brief description of project:

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2) Name of contractor or agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone # \_\_\_\_\_

Brief description of project:

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3) Name of contractor or agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone # \_\_\_\_\_

Brief description of project:

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**“EXHIBIT B”**

**CITY OF PALM SPRINGS, CALIFORNIA INVITATION FOR BIDS NO. 21-01  
PROVIDE ROADSIDE AND TRANSIENT MAINTENANCE**

**NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND NOTARIZED  
AND SUBMITTED WITH BID**

STATE OF CALIFORNIA )

) SS

COUNTY OF RIVERSIDE )

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

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

By: \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for said  
County and State

FIDAVI.FRM

**BIDDER'S GENERAL INFORMATION**

**INVITATION FOR BIDS NO. 21-01  
ROADSIDE AND TRANSIENT MAINTENANCE**

The Bidder shall furnish the following information. Failure to complete all Items will cause the Bid to be non-responsive and may cause its rejection.

1. BIDDER/CONTRACTOR'S Name and Street Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. CONTRACTOR'S Telephone Number: (     ) \_\_\_\_\_  
Facsimile Number: (     ) \_\_\_\_\_

1. CONTRACTOR'S License: Primary Classification \_\_\_\_\_  
State License Number(s) \_\_\_\_\_  
Supplemental License Classifications \_\_\_\_\_

4. Name and Title of person authorized to execute a contract for this company:  
\_\_\_\_\_

5. Surety Company and Agent who will provide the required Bonds on this Contract:  
Name of Surety: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Surety Company \_\_\_\_\_  
Telephone Numbers: Agent (     ) \_\_\_\_\_ Surety (     ) \_\_\_\_\_

6. Type of Contractor (Individual, Partnership or Corporation): \_\_\_\_\_

7. Corporation organized under the laws of the State of: \_\_\_\_\_

8. List the names and addresses of the principal members of the contractor or names and titles of the principal officers of the corporation or contractor:  
\_\_\_\_\_  
\_\_\_\_\_

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9. Number of years' experience as a contractor in this specific type of work: \_\_\_\_\_

10. List the name and title of the person who will supervise full-time the proposed work for this project:

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11. Is full-time supervisor an employee \_\_\_\_\_ contract service \_\_\_\_\_ ?

12. A financial statement or other information and references sufficiently comprehensive to permit an appraisal of your current financial condition may be required by the City. **\*WAIVED\***

**CITY OF PALM SPRINGS, CALIFORNIA  
IFB 21-01 ROADSIDE AND TRANSIENT MAINTENANCE SERVICES**

**BID BOND FORM**

KNOW ALL MEN BY THESE  
PRESENTS,

That \_\_\_\_\_ as principal, and  
\_\_\_\_\_ as Surety, are held and  
contractually bound unto The City of Palm Springs, hereinafter called the "City" in the sum of:

\_\_\_\_\_ dollars  
(not less than 10 percent of the total amount of the bid)

for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors,  
administrators, successors, and assigns, jointly and severally, contractually by these presents.

WHEREAS, said Principal has submitted a bid to said City to perform the Work required  
under the bidding schedule of the City's Contract Documents entitled:

**ROADSIDE AND TRANSIENT MAINTENANCE SERVICES**

NOW THEREFORE, if said Principal is awarded a contract by said City, and, within the time and  
in the manner required in the "Notice Inviting Bids" and the "Instructions to Bidders" enters into a  
written Agreement on the form of agreement bound with said Contract Documents, furnishes the  
required Certificates of Insurance, and furnishes the required Performance Bond and Payment  
Bond, then this obligation shall be null and void, otherwise it shall remain in full force and  
effect. In the event suit is brought upon this bond by said City and City prevails, said Surety shall  
pay all costs incurred by said City in such suit, including a reasonable attorney's fee to be fixed  
by the court.

SIGNED AND SEALED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)

(Principal)

\_\_\_\_\_  
(SEAL)

(Surety)

By: \_\_\_\_\_  
(Signature)

(SEAL AND NOTARIAL ACKNOWLEDGMENT OF SURETY) By: \_\_\_\_\_  
(Signature)

**WORKER'S COMPENSATION CERTIFICATE**

(AS REQUIRED BY SECTION 1861  
OF THE CALIFORNIA LABOR CODE)

I am aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for worker's compensation, or to undertake self-insurance in accordance with the provisions of said Code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Contractor \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

## SUMMARY OF INSURANCE

### REQUIREMENTS FOR CITY CONTRACTS

#### ***Instructions to Contractors/Vendors/Service Providers:***

Prior to commencing any work, all contractors, vendors and service providers shall procure and maintain, at their own cost and expense for the duration of their contract with the City, appropriate insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services. The types of insurance required and the coverage amounts are specified below:

#### A. Minimum Scope of Insurance Required

1. **General Liability Insurance** is required whenever the City is at risk of third-party claims which may arise out of work or presence of a contractor, vendor and service provider on City premises.
2. **Automobile Liability Insurance** is required only when vehicles are used by a contractor, vendor or service provider in their scope of work or when they are driven off-road on City property. Compliance with California law requiring auto liability insurance is mandatory and can not be waived.
3. **Workers' Compensation and Employer's Liability Insurances** is required for any contractor, vendor or service provider that has any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement form.
4. **Errors and Omissions** coverage is required for licensed or other professional contractors doing design, architectural, engineering or other services that warrant such insurance.

#### B. Minimum Limits of Insurance Coverage Required

Under \$25,000	Limits TBD by Risk Manager
Over \$25,000 to \$5,000,000	\$1 Million per Occurrence/\$2 Million Aggregate
Over \$5 Million	Limits TBD by Risk Manager

Umbrella excess liability may be used to reach the limits stated above.

#### C. The following general requirements apply:

1. Insurance carrier must be authorized to do business in the State of California.
2. Insurance carrier must have a rating of or equivalent to B++, VII, by A.M. Best Company.
3. Coverage must include personal injury, protective and employer liability.
4. Certificate must include evidence of the amount of any deductible or self-insured retention under the policy.
5. Contractor's general liability and automobile insurance coverage must be primary and non-contributory over any insurance the City may maintain, that is, any such City insurance shall be excess to limits stated in the certificate.

#### D. 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 ([see attached](#)) 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 a specific contract" 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 a specific contract" 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. **See Example A below.**
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. **See Example B below.**

In addition to the endorsements listed above, the City of Palm Springs shall be named the certificate holder on the policy.

All certificates 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 contractor's obligation to provide them.

E. Acceptable Alternatives to Insurance Industry Certificates of Insurance:

- A copy of the full insurance policy which contains a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) and additional insured and/or loss-payee status, when appropriate, for the City.
- Binders and Cover Notes are also acceptable as interim evidence for up to 90 days from date of approval

F. Endorsement Language for Insurance Certificates

SHOULD ANY OF THE ABOVE-REFERENCED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS\* WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED HEREIN BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

*\*The broker/agent can include a qualifier stating "10 days notice for nonpayment of premium."*

**Example A:**

"IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (S), BUT ONLY AS RESPECTS THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED HERETO."

**Example B:**

- G. Alternative Programs/Self-Insurance. Under certain circumstances, the City may accept risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs as verification of insurance coverage. These programs are subject to separate approval once the City has reviewed the relevant audited financial statements and made a determination that the program provides sufficient coverage to meet the City's requirements.

THIS SPACE INTENTIONALLY LEFT BLANK

## CONTRACT SERVICES AGREEMENT

### (PROJECT NAME AND/OR CONTRACTORS NAME)

THIS AGREEMENT FOR CONTRACT SERVICES (“Agreement”) is made and entered into on \_\_\_\_\_, 20\_\_\_\_, by and between the City of Palm Springs, a California charter city and municipal corporation (“City”), and \_\_\_\_\_, a \_\_\_\_\_, (“Contractor”). City and Contractor are individually referred to as “Party” and are collectively referred to as the “Parties”.

### RECITALS

- A. City requires the services of a \_\_\_\_\_, for \_\_\_\_\_, (“Project”).
- B. Contractor has submitted to City a proposal to provide \_\_\_\_\_, to City under the terms of this Agreement.
- C. Contractor is qualified by virtue of its experience, training, education, reputation, and expertise to provide these services and has agreed to provide such services as provided in this Agreement.
- D. City desires to retain Contractor to provide such contract services.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### AGREEMENT

#### 1. SERVICES OF CONTRACTOR

**1.1 Scope of Services.** In compliance with all terms and conditions of this Agreement, Contractor agrees to perform the contract services set forth in the Scope of Services described in Exhibit “A” (the “Services” or “Work”), which is attached and incorporated herein by this reference. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that Contractor is a provider of first class work and contract services and that Contractor is experienced in performing the Work contemplated and, in light of such status and experience, Contractor covenants that it shall perform the the Work in a competent, professional, and satisfactory manner consistent with the level of care and skill ordinarily exercised by high quality, experienced, and well qualified members of the profession currently practicing under similar conditions.

**1.2 Contract Documents.** The Agreement between the Parties shall consist of the following: (1) this Agreement; (2) the Scope of Services; (3) the City’s Request for Proposals; and, (4) the Contractor’s signed, original proposal submitted to the City (“Contractor’s Proposal”), (collectively referred to as the “Contract Documents”). The City’s Request for Proposals and the Contractor’s Proposal, which are both attached as Exhibits “B” and “C”, respectively, are incorporated herein by this reference and are made a part of this Agreement. The Scope of Services shall include the Contractor’s Proposal. All provisions of the Scope of Services, the City’s Request for Proposals and the Contractor’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 (Exhibit “A”); (2<sup>nd</sup>) the provisions of the City’s Request for Proposal (Exhibit “B”); (3<sup>rd</sup>) the terms of this Agreement; and, (4<sup>th</sup>) the provisions of the Contractor’s Proposal (Exhibit “C”).

**1.3 Compliance with Law.** Contractor warrants that all Services rendered shall be performed in accordance with all applicable federal, state, and local laws, statutes, ordinances lawful orders, rules, and regulations. Contractor shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement.

**1.4 Licenses, Permits, Fees, and Assessments.** Contractor 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. Contractor represents and warrants to City that Contractor 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 Contractor to perform the Work and Services under this Agreement. Contractor 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 Contractor's performance of the Work and Services required by this Agreement. Contractor 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, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Scope of Services to be performed, (b) has carefully considered 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, Contractor warrants that Contractor 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 Contractor discover any latent or unknown conditions that will materially affect the performance of the Services, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the City.

**1.6 Care of Work.** Contractor shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components to prevent losses or damages. Contractor shall be responsible for all such damages, to persons or property, until acceptance of the Work by the City, except such losses or damages as may be caused by City's own negligence.

**1.7 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.

**1.8 Additional Services.** City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from such Work. No such extra work may

be undertaken unless a written order is first given by the City to the Contractor, incorporating any adjustment in (i) the Maximum Contract Amount, as defined below, and/or (ii) the time to perform this Agreement. Any adjustments must also be approved in writing by the Contractor. Any increase in compensation of up to twenty-five percent (25%) of the Maximum Contract Amount or \$25,000, whichever is less, or in the time to perform of up to thirty (30) days, may be approved by the City Manager, or his designee, as may be needed to perform any extra work. Any greater increases, occurring either separately or cumulatively, must be approved by the Palm Springs City Council. It is expressly understood by Contractor that the provisions of this section shall not apply to the services specifically set forth or reasonably contemplated within the Scope of Services.

## **2. COMPENSATION**

**2.1 Maximum Contract Amount.** For the Services rendered under this Agreement, Contractor 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. Compensation shall not exceed the maximum contract amount of [INSERT NOT TO EXCEED CONTRACT AMOUNT] Dollars, (\$ [REDACTED]) ("Maximum Contract Amount"), except as may be provided under Section 1.8. The method of compensation shall be as set forth in Exhibit "D." The method of compensation shall be as set forth in Exhibit "D." 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 Contractor at all Project meetings reasonably deemed necessary by the City. Contractor shall not be entitled to any increase in the Maximum Contract Amount for attending these meetings. Contractor accepts the risk that the services identified in the Scope of Services may be more costly and/or time-consuming than Contractor anticipates, that Contractor shall not be entitled to additional compensation, and that the provisions of Section 1.8 shall not be applicable to the services identified in the Scope of Services. The maximum amount of city's payment obligation under this section is the amount specified in this Agreement. If the City's maximum payment obligation is reached before the Contractor's Services under this Agreement are completed, Contractor shall complete the 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 Contractor wishes to receive payment, Contractor 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 Contractor 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 Contractor 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 Changes in Scope.** In the event any change or changes in the Scope of Services is requested by City, 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 Contractor'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, this Agreement shall automatically terminate without penalty to the City.

### **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 Contractor is an essential condition of this Agreement. Contractor shall prosecute regularly and diligently the Work of this Agreement according to the agreed upon attached Schedule of Performance (Exhibit "E"), incorporated by reference. Neither Party shall be accountable for delays in performance caused by any condition beyond the reasonable control and without the fault or negligence of the non-performing Party. Delays shall not entitle Contractor to any additional compensation regardless of the Party responsible for the delay.

**3.2 Schedule of Performance.** Contractor 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 Contractor, 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 City shall not be obligated to grant such an extension.

**3.3 Force Majeure.** The time for performance of Services to be rendered under this Agreement may be extended because of any delays due to a Force Majeure Event, if Contractor notifies the Contract Officer within ten (10) days of the commencement of the Force Majeure Event. A Force Majeure Event shall mean an event that materially affects the Contractor's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the Work); and (4) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of the City in its capacity as a municipal authority. After Contractor notification, the Contract Officer shall investigate the facts and the extent of any necessary delay, and extend the time for performing the Services for the period of the enforced delay when and if, in the Contract Officer's judgment, such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. The Contractor will not receive an adjustment to the contract price or any other compensation. Notwithstanding the foregoing, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

**3.4 Term.** Unless earlier terminated in accordance with Section 4.5 of this Agreement, this Agreement shall continue in full force and effect for a period of [REDACTED] (weeks/months), commencing on [REDACTED], 202\_\_, and ending on [REDACTED], 202\_\_, unless extended by mutual written

agreement of the Parties. However, the term shall not exceed **three (3) years** from the commencement date, except as otherwise provided in the Schedule of Performance described in Section 3.2 above.

**3.5 Termination Prior to Expiration of Term.** City may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Contractor. Where termination is due to the fault of Contractor 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 receipt of the notice of termination, Contractor shall immediately cease all Services except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all Services rendered prior to receipt of the notice of termination and for any Services authorized by the Contract Officer after such notice. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Contractor shall not be entitled to payment for unperformed Services, and shall not be entitled to damages or compensation for termination of Work. Contractor may not terminate this Agreement except for cause, upon thirty (30) days written notice to City.

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

**4.1 Representative of Contractor.** The following principal of Contractor is designated as being the principal and representative of Contractor authorized to act in its behalf and make all decisions with respect to the Services to be performed under this Agreement: **[REDACTED]** **[INSERT NAME]**, **[REDACTED]** **[INSERT TITLE]**. 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 Contractor and devoting sufficient time to personally supervise the Services performed hereunder. The foregoing principal may not be changed by Contractor without prior written approval of the Contract Officer.

**4.2 Contract Officer.** The Contract Officer shall be the City Manager or his/her designee ("Contract Officer"). Contractor shall be responsible for keeping the Contract Officer fully informed of the progress of the performance of the Services. Contractor 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, education, capability, and reputation of Contractor, its principals and employees, were a substantial inducement for City to enter into this Agreement. Contractor shall not contract with any other individual or entity to perform any Services required under this Agreement without the City's express written approval. In addition, neither this Agreement nor any interest may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Subcontracts, if any, shall contain a provisions making them subject to all provisions stipulated in this Agreement including without limitation the insurance and indemnification requirements. If Contractor is permitted to subcontract any part of this Agreement by City, Contractor 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 Contractor. City will deal directly with and will make all payments to Contractor. 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 Contractor, 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 Contractor or any surety of Contractor 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 Contractor a City employee.

A. During the performance of this Agreement, Contractor 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 Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in this Agreement. Contractor, 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 Contractor's employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. Contractor 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 Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

B. Contractor 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 Contractor, its officers, employees, or agents in connection with any performance under this Agreement. Except for contract fees paid to Contractor as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Contractor for the performance of Services under this Agreement. City shall not be liable for compensation or indemnification to Contractor, 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 Contractor's officers, employees, servants, representatives, subcontractors, or agents, Contractor shall indemnify City for all such financial obligations.

#### **4.5 California Labor Code Requirements.**

A. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the

Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$15,000 or more for maintenance or \$25,000 or more for construction, alteration, demolition, installation, or repair, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

B. If the Services are being performed as part of an applicable “public works” or “maintenance” project and if the total compensation is \$15,000 or more for maintenance or \$25,000 or more for construction, alteration, demolition, installation, or repair, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements.

## **5. INSURANCE**

**5.1 Types of Insurance.** Contractor shall procure and maintain, at its sole cost and expense, the insurance described herein. 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 Contractor's performance of Work under this Agreement, including Contractor'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 Contractor 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. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified in this Agreement. Except as otherwise authorized below for contract 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.** Contractor shall obtain and maintain in full force and effect throughout the term of this Agreement, standard industry form contract 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) Contractor shall either: (a) certify in writing to the City that Contractor is unaware of any contract liability claims made against Contractor and is unaware of any facts which may lead to such a claim against Contractor; or (b) if Contractor does not provide the certification under (a), Contractor shall procure from the contract 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, Contractor shall obtain continuing insurance coverage for the prior acts or omissions of Contractor 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. Contractor 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. Contractor 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 Contractor has no employees, Contractor shall complete the City’s Request for Waiver of Workers’ Compensation Insurance Requirement form.

C. Commercial General Liability Insurance. Contractor 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. Contractor 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. Contractor 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. Contractor 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 Contractor'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 Contractor under this Agreement:

A. For any claims related to this Agreement, Contractor'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 Contractor's insurance and shall not contribute with it.

B. 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.

C. All insurance coverage and limits provided by Contractor 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.

D. 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.

E. Contractor 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 Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided in this Agreement.

F. Contractor agrees to ensure that subcontractors, and any other parties involved with the Project who are brought onto or involved in the Project by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

G. Contractor acknowledges and agrees that any actual or alleged failure on the part

of the City to inform Contractor 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.

H. Contractor 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.

I. 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.

J. 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.

K. Contractor agrees to provide immediate notice to City of any claim or loss against Contractor 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.

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

A. *"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).*

B. *"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).*

C. *"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.*

D. 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 Contractor's obligation to provide them.

## **6. INDEMNIFICATION**

**6.1 Indemnification and Reimbursement.** To the fullest extent permitted by law, Contractor shall defend (at 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 (Contractor's employees included), for damage to property, including property owned by City, for any violation of any federal, state, or local law or ordinance or in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct committed by Contractor, its officers, employees, representatives, and agents, that arise out of or relate to Contractor's performance of Services or this Agreement. This indemnification clause excludes Claims arising from the sole negligence or willful misconduct of the Indemnified Parties. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability under this Agreement. 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.

### **6.2 Design Contract Services Indemnification and Reimbursement.**

If

Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's indemnification obligation shall be limited to the extent which the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor in the performance of the Services or this Agreement, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

## **7. REPORTS AND RECORDS**

**7.1 Accounting Records.** Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor 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.** Contractor 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. Contractor acknowledges that the City is greatly concerned about the cost of the Work to be performed under this Agreement. For this reason, Contractor agrees that Contractor shall promptly notify the Contract Officer the estimated increased or decreased cost if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services. If Contractor is providing design services, Contractor shall promptly notify the Contract Officer the estimated increased or decreased cost for the project being designed if Contractor 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 Contractor, 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. Contractor 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 Contractor will be at the City's sole risk and without liability to Contractor, and the City shall indemnify the Contractor for all resulting damages. Contractor may retain copies of such documents for their own use. Contractor shall have an unrestricted right to use the concepts embodied in this Agreement. Contractor shall ensure that all its subcontractors shall provide for assignment to City of any documents or materials prepared by them. In the event Contractor fails to secure such assignment, Contractor shall indemnify City for all resulting damages.

**7.4 Release of Documents.** All drawings, specifications, reports, records, documents, and other materials prepared by Contractor 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

Contractor in the performance of this Agreement shall be considered confidential and shall not be released by Contractor 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, Contractor shall provide City, or other agents of City, such access to Contractor'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 Contractor's performance under this Agreement. Contractor 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 Contractor 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 Contractor.** Contractor's failure to comply with any provision of this Agreement shall constitute a default.

A. If the City Manager, or his designee, determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Contractor in writing of such default. Contractor shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Contractor fails to cure its default within such period of time, City 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. Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor shall not limit Contractor'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 contractor fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such 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 Contractor, 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 Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

**9.2 Conflict of Interest.** Contractor acknowledges that no officer or employee of the City has or shall have any direct or indirect financial interest in this Agreement nor shall Contractor enter into any agreement of any kind with any such officer or employee during the term of this Agreement and for one (1) year thereafter. Contractor warrants that Contractor 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, Contractor shall not discriminate against any employee or applicant for employment because

of actual or perceived race, religion, color, sex, age, marital status, ancestry, national origin ( *i.e.*, place of origin, immigration status, cultural or linguistic characteristics, or ethnicity), sexual orientation, gender identity, gender expression, physical or mental disability, or medical condition (each a “prohibited basis”). Contractor shall ensure that applicants are employed, and that employees are treated during their employment, without regard to any prohibited basis. As a condition precedent to City’s lawful capacity to enter this Agreement, and in executing this Agreement, Contractor certifies that its actions and omissions hereunder shall not incorporate any discrimination arising from or related to any prohibited basis in any Contractor activity, including but not 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; and further, that Contractor is in full compliance with the provisions of Palm Springs Municipal Code Section 7.09.040, including without limitation the provision of benefits, relating to non-discrimination in city contracting.

## **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 Contractor against patent or copyright infringement, statutory or otherwise:

A. It is agreed that Contractor 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 Contractor shall pay all costs and damages finally awarded in any such suit or claim, provided that Contractor is promptly notified in writing of the suit or claim and given authority, information and assistance at Contractor’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 Contractor. However, Contractor 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 Contractor when it is such use in combination which infringes upon an existing U.S. letters patent or copyright.

B. Contractor 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 Contractor’s expense. Contractor shall not be obligated to indemnify City under any settlement that is made without Contractor’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, Contractor, 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

To Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**10.3 Integrated Agreement.** This Agreement constitutes the entire understanding between the Parties and supersedes and cancels 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 signed 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.

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

**[SIGNATURES ON NEXT PAGE]**

**SIGNATURE PAGE TO CONTRACT SERVICES AGREEMENT BY AND BETWEEN THE  
CITY OF PALM SPRINGS AND ROADSIDE AND TRAINSIENT MAINTENANCE**

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, PhD  
City Manager

**APPROVED AS TO FORM:                      ATTEST**

By: \_\_\_\_\_ By: \_\_\_\_\_

Jeffrey S. Ballinger  
City Attorney

Anthony Mejia  
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.

**CONTRACTOR NAME:**

\_\_\_\_\_ Check one: \_\_\_ Individual \_\_\_ Partnership \_\_\_ Corporation

Address \_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_ By \_\_\_\_\_

Signature (Notarized)

Signature (Notarized)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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.

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

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended 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: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

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

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

Corporate Officer — Title(s): \_\_\_\_\_

Partner —  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

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

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

**EXHIBIT "B"**  
**CITY'S REQUEST FOR PROPOSALS**

**EXHIBIT "C"**  
**CONTRACTOR'S PROPOSAL**

**EXHIBIT "D"**  
**SCHEDULE OF COMPENSATION**

**EXHIBIT "E"**  
**SCHEDULE OF PERFORMANCE**