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### SANTA MARIA PUBLIC AIRPORT DISTRICT BOARD OF DIRECTORS

Thursday February 14, 2019 Administration Building Airport Boardroom 7:00 P.M.

### REGULAR MEETING A G E N D A

This agenda is prepared and posted pursuant to the requirements of the California Government Code Section 54954.2. By listing a topic on this agenda, the Santa Maria Public Airport District has expressed its intent to discuss and act on each item. The Santa Maria Public Airport District welcomes orderly participation at its meetings from all members of the public. This includes assistance under the Americans with Disabilities Act to provide an equally effective opportunity for individuals with a disability to participate in and benefit from District activities. To request assistance with disability accommodation, please call (805) 922-1726. Notification at least 48 hours prior to the meeting would enable the Santa Maria Public Airport District to make reasonable arrangements to ensure accessibility to this meeting.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: Rafferty, Adams, Engel, Brown, Baskett

- 1. MINUTES OF THE REGULAR MEETING HELD JANUARY 24, 2019.
- 2. COMMITTEE REPORT(S):
  - a) AVIATION SUPPORT & PLANNING (Standing or Ad Hoc)
  - b) ADMINISTRATION & FINANCIAL (Standing or Ad Hoc)
  - c) MARKETING & PROMOTIONS (Standing or Ad Hoc)
  - d) CITY & COUNTY LIAISON
  - e) STATE & FEDERAL LIAISON
  - f) VANDENBERG LIAISON
  - g) BUSINESS PARK COMMITTEE (Ad Hoc)
- 3. GENERAL MANAGER'S REPORT
- 4. MANAGER OF FINANCE & ADMINISTRATION REPORT
  - a) Demand Register
- 5. DISTRICT COUNSEL'S REPORT. (Joshua George and Natalie Frye Laacke)

- 6. PUBLIC SESSION: Statements from the floor will be heard during public session. Request to Speak forms are provided for those wishing to address the board. After completing the form, please give it to the Clerk. Requests requiring board action will be referred to staff and brought on the next appropriate agenda. Members of the public are cordially invited to speak on agenda items as they occur. Staff reports covering agenda items are available for review in the offices of the General Manager on the Tuesday prior to each meeting. The Board will establish time limit for receipt of testimony. The board reserves the right to establish further time limits for receipt of testimony.
- 7. RESOLUTION 871. A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT ENACTING AN ORDINANCE ESTABLISHING A BY-DISTRICT ELECTION PROCESS PURSUANT TO ELECTIONS CODE SECTION 10010.
- 8. AUTHORIZATION FOR THE GENERAL MANAGER TO APPROVE THE 2019 SAFETY PROJECT-OBSTRUCTION REMOVAL.
- 9. AUTHORIZATION FOR THE PRESIDENT AND SECRETARY TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE DISTRICT AND LYFT, INC.
- 10. DISCUSSION AND DIRECTION TO STAFF REGARDING AIRPORT HISTORY RESEARCH PROJECT.
- 11. CLOSED SESSION. The Board will hold a Closed Session to discuss the following item(s):
  - a) Conference with Real Property Negotiators (Chris Hastert, Tom Ross and District Counsel) Re: 111-231-11 (Gov. Code Section 54956.8).
  - b) Conference with Legal Counsel-Pending litigation pursuant to Government Code Section 54956.9(d)(4): 1 case SMPAD v. David Baskett.
- 12. DIRECTORS' COMMENTS.
- 13. ADJOURNMENT.

1 2 3 4 5		MINUTES OF THE REGULAR BOARD MEETING OF THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT HELD JANUARY 24, 2019
6 7 8 9	ן נ	The Board of Directors of the Santa Maria Public Airport District held a Regular Meeting at the regular place at 7:00 p.m. Present were Directors Rafferty, Adams, Engel, Brown and Baskett. General Manager Hastert, Manager of Finance & Administration Reade and District Counsel George.
0 1 2 3		President Rafferty notified the Board that agenda item 12 would be presented after agenda item 7.
.3 .4 .5 .6 .7	1.	MINUTES OF THE REGULAR MEETING HELD January 10, 2019. Director Baskett made a Motion to approve the minutes of the regular meeting held January 10, 2019. Director Adams Seconded and it was carried by a 5-0 vote.
8	2.	COMMITTEE REPORT(S):
9 0 1 2		<ul> <li>a) AVIATION SUPPORT &amp; PLANNING (Standing or Ad Hoc) – No meeting scheduled.</li> </ul>
2 3 1 5		<ul> <li>ADMINISTRATION &amp; FINANCIAL (Standing or Ad Hoc) – An Ad Hoc committee met to discuss a potential agenda item.</li> </ul>
		<ul> <li>MARKETING &amp; PROMOTIONS (Standing or Ad Hoc) – No meeting scheduled.</li> </ul>
		d) CITY & COUNTY LIAISON – No meeting scheduled.
		e) STATE & FEDERAL LIAISON – No meeting scheduled.
		f) VANDENBERG LIAISON – No meeting scheduled.
		<ul> <li>BUSINESS PARK COMMITTEE (Ad Hoc) – The committee is scheduled to meet next Friday.</li> </ul>
	3.	GENERAL MANAGER'S REPORT. Mr. Hastert notified the Board of meetings he has attended with the Chamber of Commerce, Cal Poly and District Counsel. He will be attending an EDC meeting and the SWAAAE Conference. He also notified the Board that ProDIGIQ is providing pizza to all the TSA workers who are currently affected by the shutdown.
	4.	MANAGER OF FINANCE & ADMINISTRATION REPORT.
		The Manager of Finance & Administration presented the Demand Register to the Board for review and approval.
		<ul> <li>Demand Register. The Demand Register, covering warrants 066188 through 066251 in the amount of \$681,589.80 was recommended for approval as</li> </ul>

1 2 3		presented. Director Baskett made a Motion to accept the Demand Register as presented. Director Brown Seconded and it was carried by a 5-0 vote.
4		b) Budget to Actual. Received and filed.
5 6 7	5.	DISTRICT COUNSEL'S REPORT. District Counsel is looking forward to the Attorney Workshop at the SWAAAE Conference.
8 9 10 11 12 13 14 15 16 17 18	6.	PUBLIC SESSION: Statements from the floor will be heard during public session. Request to Speak forms are provided for those wishing to address the board. After completing the form, please give it to the Clerk. Requests requiring board action will be referred to staff and brought on the next appropriate agenda. Members of the public are cordially invited to speak on agenda items as they occur. Staff reports covering agenda items are available for review in the offices of the General Manager on the Tuesday prior to each meeting. The Board has established a five- minute time limit for receipt of testimony. The board reserves the right to establish further time limits for receipt of testimony.
19		No one requested to speak.
20 21 22 23 24	7.	Presentation of the annual audit by Jeff Palmer of Fedak & Brown LLP. Mr. Palmer presented the audit and answered questions from the Directors. The audit has been received and filed.
25 26 27 28 29	8.	Public Hearing. Hearing to consider draft maps of voting districts and proposed sequence of elections for a District-Based Elections process pursuant to Elections Code Section 10010. Director Baskett made a Motion to adopt map 101. Director Brown Seconded and it was carried by a 5-0 vote.
29 30 31 32 33 34 35	9.	Public Hearing. Hearing to introduce an ordinance establishing a By-District Election process with description of voting districts and future sequence of elections. Director Engel made a Motion to waive the public reading of the ordinance stating it is to be read in title only. Director Adams Seconded and it was carried by a 5-0 vote.
36 37	10.	Discussion and direction to staff regarding 2019 goal setting. Mr. Hastert presented the Board with the top 5 items that staff is currently working on.
38 39 40 41 42	11.	Discussion and direction to staff regarding request to conduct California Tiger Salamander egg study. This item was tabled and will be brought back at a future meeting.
43 44 45 46	12.	Authorization for the General Manager to proceed with sponsorship of the Kite Festival. Director Baskett made a Motion to approve. Director Engel Seconded and it was carried by a 5-0 vote.
47 48 49 50	13.	Authorization for the President to nominate the Santa Barbara Local Agency Formation Committee regular and alternate special district members. This item was tabled and will be brought back at a future meeting.
51		RECESS: At 7:29 p.m.

1 2 3 4 5		Return to OPEN SESSION: At 7:35 p.m. The Board and staff reconvened to Open Session.
	14.	CLOSED SESSION. At 7:35 p.m. the Board went into Closed Session to discuss the following item(s):
6 7 8 9		<ul> <li>a) Conference with Legal Counsel-Pending litigation pursuant to Government Code Section 54956.9(d)(4): 1 case SMPAD v. David Baskett</li> </ul>
10		At 8:01 p.m., the Board and staff reconvened to Open Public Session.
11 12		There were no reportable actions.
13 14 15 16	15.	DIRECTORS' COMMENTS: Director Engel asked what the disposition of the Mitchell Road building was. He also asked President Rafferty to add an agenda item for the next meeting.
17 18		Director Brown is looking forward to the SWAAAE Conference.
19 20		Directors Adams, Baskett and Rafferty had no comment.
21 22 23 24 25 26	16.	ADJOURNMENT. President Rafferty asked for a Motion to adjourn to a Regular Meeting to be held on February 14, 2019 at 7:00 p.m. at the regular meeting place. Director Baskett made that Motion, Director Brown Seconded and the Motion was carried by a 5-0 vote.
26 27		ORDER OF ADJOURNMENT
28 29 30 31		This Regular Meeting of the Board of Directors of the Santa Maria Public Airport District is hereby adjourned at 8:04 p.m. on January 24, 2019.
32		
33 34 35		Hugh Rafferty, President
36 37		Carl Engel, Secretary
	I	

# DEMAND REGISTER SANTA MARIA PUBLIC AIRPORT DISTRICT

Full consideration has been received by the Santa Maria Public Airport District for each demand, numbers 066252 to 066346 on Pacific Premier Bank in the total amount of \$657,825.44

CHRIS HASTERT GENERAL MANAGER DATE

The undersigned certifies that the attached register of audited demands of the Santa Maria Public Airport District for each demand, numbers 066252 to 066346 on Pacific Premier Bank in the total amount of \$657,825.44 has been approved as being in conformity with the budget approved by the Santa Maria Public Airport District and funds are available for their payment.

VERONEKA READE MANAGER OF FINANACE AND ADMINISTRATION DATE

THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT APPROVED PAYMENT OF THE ATTACHED WARRANTS AT THE MEETING OF FEBRUARY 14, 2019.

CARL ENGEL JR. SECRETARY

# Santa Maria Public Airport District

# Demand Register

Check Numbe	r Check Date Vendor Name	Cheo	k Amount	Description	AIP Reim	bursemen
066252	1/25/2019 City of Santa Maria	\$	263.42	Water Invoice		
066253	1/25/2019 City of Santa Maria	\$	14.80	Water Invoice		
066254	1/25/2019 Kenneth and Karen Dally	\$	115.87	Deposit Refund		
066255	1/25/2019 James Hayes	\$	153.13	Deposit Refund		
066256	1/25/2019 Advantage Answering Plus	\$	291.02	Answering Service		
066257	1/25/2019 Aflac	\$	569.34	Voluntary Ins Employee		
066258	1/25/2019 AT&T	\$	40.47	Phone Service		
066259	1/25/2019 Consolidated Electrical Distributors, Inc.	\$	464.70	Lighting Maintenance		
066260	1/25/2019 CenCal TEK	\$	740.00	Computer Support		
066261	1/25/2019 City of Santa Maria-Util Div	\$	3,329.42	Water Invoices		
066262	1/25/2019 Clark Pest Control	\$	899.00	Pest Control - Terminal & Adm.		
066263	1/25/2019 Comcast	\$	1,201.99	Cable/Internet /Digital Voice		
066264	1/25/2019 Federal Express	\$	66.86	Freight & Common Carrier		
066265	1/25/2019 Ferguson Enterprises, Inc.	\$		Buildg. Maint Customs		
066266	1/25/2019 City of Santa Maria	\$		AARF Services Oct, Nov, Dec 2018		
066267	1/25/2019 Frontier Communications	\$		Telephone Service		
066268	1/25/2019 Home Depot	\$ \$		Building Maintenance		
066269	1/25/2019 J B Dewar, Inc	\$		Fuel Expense - Gas/Diesel		
)66270	1/25/2019 Letters, Inc.	\$		Auto Maintenance		
		· · · ·		Uniform Service		
066271	1/25/2019 Mission Uniform Service	\$				
)66272	1/25/2019 Quinn Company	\$		Repair services		
066273	1/25/2019 VERONEKA READE	\$		Reimbursment		
)66274	1/25/2019 Roberts & Connell LLP	\$		Legal Service		
66275	1/25/2019 Zee Medical Service Company	\$		First Aid		
66276	2/1/2019 ACCO Engineered Systems	\$		Repair and Maintenance		
66277	2/1/2019 Chuck Adams	\$		Directors Fees		
)66278	2/1/2019 AT&T	\$		Phone Service		
)66279	2/1/2019 Steve Brown	\$	100.00	Directors Fees		
)66280	2/1/2019 Clark Pest Control	\$	330.00	Pest Control - Terminal & Adm.		
)66281	2/1/2019 Carl Engel, Jr.	\$	200.00	Directors Fees		
)66282	2/1/2019 Fastenal Company	\$	114.19	Shop Supplies		
66283	2/1/2019 Fedak & Brown LLP	\$	3,290.00	Annual Audit		
)66284	2/1/2019 Frontier Communications	\$	178.60	Telephone Service		
)66285	2/1/2019 Local Copies, Etc.	\$	72.14	Printing & Stationary		
66286	2/1/2019 Mission Uniform Service	\$	137.55	Uniform Service		
)66287	2/1/2019 Pacific Gas & Electric Company	\$	6,878.72	Terminal/Admin./Main Hangar		
066288	2/1/2019 Ponek Appraisal	\$	4,500.00	Property Appraisal		
)66289	2/1/2019 Principal Financial Group	\$	3,211.86	Dental, Life, Disability, Visi		
)66290	2/1/2019 Hugh Rafferty	\$	300.00	Directors Fees		
)66291	2/1/2019 SB County Air Pollution	\$	1,330.05	Permits		
066292	2/1/2019 Sherwin-Williams	\$	161.50	Pavement/Roads - Terminal Area		
066293	2/1/2019 Santa Maria Times	\$	570.25	Notice of Draft Voting		
066294	2/1/2019 Verizon Wireless	\$		Cell Phones		
066295	2/1/2019 Tartaglia Engineering	\$		GIS Project		
066296	2/1/2019 Ray Heath	\$		Consulting Service		
)66297	2/1/2019 CalPortland Construction	\$		AIP #36 Terminal Apron Reconstruction	\$	125,42
)66298	2/1/2019 Tartaglia Engineering	\$	137,278.58		↓ \$	124,45
)66299	2/1/2019 Cal. Society of Municipal Finance Officers	¢		Membership Renewal	4	, <u> </u>
066300		۵ \$		•		
	2/11/2019 American Industrial Supply	φ Φ		Lighting & Nav Aid Maint.		
066301	2/11/2019 Armstrong's Lock and Key	φ 4		Maintenance		
066302	2/11/2019 AT&T	\$	114.32	Phone Service		

	Total Electronic Fund	s Transfers: \$	72,868.49		
	2/11/2019 Calpers	\$	7,609.36	Retirement	
	2/8/2019 Calpers	\$		Health Ins	
	2/8/2019 Paychex	\$		Payroll Taxes	
	2/8/2019 Payroll 2/8/2019 Paychex	۶ ۶		PC Invoice	
	2/7/2019 Mass mutual 2/7/2019 Payroll	\$ ¢	3,842.31 27,816.30	EE Retirement	
	2/1/2019 Calpers	\$		Retirement	
	1/31/2019 Calpers	\$	7,609.36	Retirement	
	Electronic Payments				
	Total Checks Written:	\$	584,956.95		\$ 249,880.69 Reimbursed amount
* 066346	2/11/2019 U.S. Dept. of Agriculture	\$	1,939.45	Wild Life Abatement	
* 066345	2/11/2019 Pacific Gas & Electric Company	\$	8,006.93	Terminal/Admin./Main Hangar	
* 066344	2/11/2019 rrm design group	\$	2,656.48	Topographic Survey	
* 066343	2/11/2019 Milt Guggia Enterprises, Inc	\$	18,500.00	Business Entertainment	Check Re-Issue
* 066342	2/11/2019 VTC Enterprises	\$	60.00	Trash - Paper Recycling	
* 066341	2/11/2019 Ultrex Business Solutions	\$	4.60	Office Supplies	
* 066340	2/11/2019 Tri-Counties Plant Service	\$	275.00	Interior Plants Maint.	
* 066339	2/11/2019 Toshiba Financial Services	\$	346.24	Copier Lease	
066331-066338	Void				
* 066330	2/11/2019 Smith's Alarms & Electronics Inc.	\$	630.00	Fire Alarm Service	
* 066329	2/11/2019 Santa Maria Times	\$	181.75	Notice to Adopt MND	
* 066328	2/11/2019 Sherwin-Williams	\$	20.91	Pavement/Roads - Terminal Area	
* 066327	2/11/2019 Service Star	\$	10,908.92	Janitorial Service	
* 066326	2/11/2019 Special Dist. Risk Mgmt. Authority	\$	47.50	Property/Liabilty Insurance	
* 066325	2/11/2019 Santa Barbara County Clerk-Rec	\$	25,644.89	General Election Invoice 2014	
* 066324	2/11/2019 ReadyRefresh by Nestle	\$	109.23	Water Delivery	
* 066323	2/11/2019 VERONEKA READE	\$	201.84	Reimbursement	
* 066322	2/11/2019 Hugh Rafferty - Reimbursement	\$	34.80	Expense Reimbursement	
* 066321	2/11/2019 Praxair	\$	205.04	Shop Supplies	
* 066320	2/11/2019 Carla Osborn	\$	444.09	Medical Reimb.	
* 066319	2/11/2019 Mission Uniform Service	\$	288.12	Uniform Service	
* 066318	2/11/2019 MarTeeny Designs	\$	275.00	Web Page Maint.	
* 066317	2/11/2019 Limotta Internet Technologies	\$	1,534.50	Computer Support Services	
* 066316	2/11/2019 Hayward Lumber Company	\$	115.09	MHP - Maintenance	
* 066315	2/11/2019 Yekaterina Haussler	\$	85.00	Reimbursement	
* 066314	2/11/2019 Chris Hastert	\$		Expense - Travel/Entertainment	
* 066313	2/11/2019 The Gas Company	\$		Utilities	
* 066312	2/11/2019 Frontier Communications	\$		Telephone Service	
* 066311	2/11/2019 Kerry Fenton	\$	619.00	Travel Expense	
* 066310	2/11/2019 Krista Cox Delany	\$	85.00	Reimbursement	
* 066309	2/11/2019 Clark Pest Control	\$		Pest Control - Terminal & Adm.	
* 066308	2/11/2019 Civil Air Patrol Magazine	\$		Airport Advertising	
* 066307	2/11/2019 CenCal TEK	\$		Computer Support	
* 066306	2/11/2019 Consolidated Electrical Distributors, Inc.	\$		Lighting Maintenance	
* 066305	2/11/2019 Central City Tool Supply, Inc.	\$		Small Tools	
* 066304	2/11/2019 Cal-Coast Machinery, Inc	\$	284.86	Heavy Equip. MaintMechanical	

Total Funds Dispersed	\$ 657,825.44
Reimbursed AIP Funds	\$ 249,880.69
Net Dispersed Funds	\$ 407,944.75

## RESOLUTION NO. 871 OF THE BOARD OF DIRECTORS OF THE SANTA MARIA PUBLIC AIRPORT DISTRICT ENACTING AN ORDINANCE ESTABLISHING A BY-DISTRICT ELECTION PROCESS PURSUANT TO ELECTIONS CODE SECTION 10010

WHEREAS, the Santa Maria Public Airport District (the "District") supports the full participation of all residents in electing members of the District's Board of Directors; and

WHEREAS, the District elects all five (5) of its Board of Directors using an at-large election system in which each Board member is elected by all registered voters of the entire District; and

WHEREAS, in the at-large election system, candidates may reside in any part of the District and each Board member is elected by the voters of the entire District; and

WHEREAS, in a by-district election system, a candidate for the Board of Directors must reside in the district which he or she wishes to represent, and only the voters of that district are entitled to vote for the representative of said district; and

WHEREAS, on or about October 15, 2018, the District received a letter from Kevin I. Shenkman, an attorney representing Southwest Voter Registration Education Project, asserting that the District's atlarge electoral system violated the California Voting Rights Act, and threatening litigation if the District declined to adopt by-district elections; and

WHEREAS, the letter received on or about October 15, 2018, did not contain any evidence of a violation, but the cost of defending against a claim under the California Voting Rights Act is extremely high, even if the District were successful, and at this time such an expensive defense would severely burden the District's budget; and

WHEREAS, California Elections Code section 10010(e)(3)(A) permits the legislative body of a special district to change its method of election by ordinance from an "at-large" system to a "by-district" system in which each member of the legislative body is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the Board of Directors adopted a resolution of intention to establish a by-district voting process pursuant to Elections Code section 10010 at a special meeting on November 19, 2018; and

WHEREAS, before any maps of the proposed boundaries of the districts were drawn, the District held two public hearings on December 13, 2018, and December 18, 2018, at which input from the public on the proposed district boundaries was invited and heard; and

WHEREAS, consistent with the provisions of California Elections Code section 10010, after all draft maps were drawn, the District published and made available for release, all of the draft maps on January 3, 2019, and the sequence of elections was also published; and

WHEREAS, as required by California Elections Code section 10010, the District held two additional hearings within a period of no more than 45 days, the first on January 10, 2019 and the second, on January 24, 2019, at which the public was invited to provide input regarding the content of the draft maps and the proposed sequence of elections; and

WHEREAS, on January 24, 2019, the District held a final public hearing to consider draft maps of voting districts and a proposed sequence of elections and formally selected the five-district voting district map and the election sequence, which was introduced for a first reading at the same regular meeting of the Board of Directors; and

WHEREAS, the Board of Directors has determined that that the change in the method of electing members is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code); and

WHEREAS, the purpose of this Resolution is to enact an Ordinance, pursuant to California Elections Code 10010 providing for the election of the Board of Directors of the Santa Maria Public Airport District by district in five (5) single-member districts, as reflected in Exhibit A attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Santa Maria Public Airport District does hereby enact the following Ordinance:

<u>SECTION 1</u>. The above recitals are true and correct and are incorporated herein by this reference.

#### SECTION 2.

(A) Beginning with the general municipal election in November of 2020, Board members shall be elected in the electoral district reflected on the map contained in Exhibit A, attached hereto and incorporated herein by this reference, and as subsequently reapportioned as provided by law. Elections shall take place on a by-district basis as that term is defined in California Government Code section 34871, meaning one member of the Board of Directors shall be elected from each district, by the voters of that district alone. Each Board member shall serve a four-year term until his or her successor has qualified.

(B) Except as provided in subdivision (C) below, the Board member elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for the Board of Directors must live and be a registered voter in the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code section 34882 and Elections Code section 10227. Termination of residency in a district by a Board member shall create an immediate vacancy for the Board of Directors unless a substitute residence within the district is established within thirty (30) days after the termination of residence.

(C) Notwithstanding any other provision of this section, each of the Board members in office at the time this Ordinance takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified. Vacancies in Board member offices elected at-large may be filled from the District at-large. At the end of the term of each Board member currently in office, that member's successor shall be elected on a by-district basis in the districts established in Section 2(A) above and the map contained in Exhibit A. A vacancy in a Board member office elected by-district shall be filled by a person qualified to hold office, who is a resident of that district.

<u>SECTION 3.</u> The Board members from election districts 1, 3, and 5 shall be elected beginning at the general municipal election in November of 2020, and every four years thereafter. The Board members from election districts 2 and 4 shall be elected beginning at the general municipal election in November of 2022 and every four years thereafter.

<u>SECTION 4</u>. The Board of Directors find that this proposed ordinance is exempt from the requirements of the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

<u>SECTION 5</u>. If any part or provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of that part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

<u>SECTION 6</u>. To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

The Ordinance incorporated herein was INTRODUCED on January 24, 2019. This Resolution enacting the Ordinance was PASSED AND ADOPTED at a regular meeting of the Santa Maria Public Airport District on the 14 day of February, 2019, by the following roll call vote:

By: \_

PRESIDENT RAFFERTY:

VICE-PRESIDENT ADAMS:

DIRECTOR ENGEL:

Approved as to content for District:

SANTA MARIA PUBLIC AIRPORT DISTRICT, a public agency

DIRECTOR BROWN:

DIRECTOR BASKETT:

Chris Hastert, General Manager

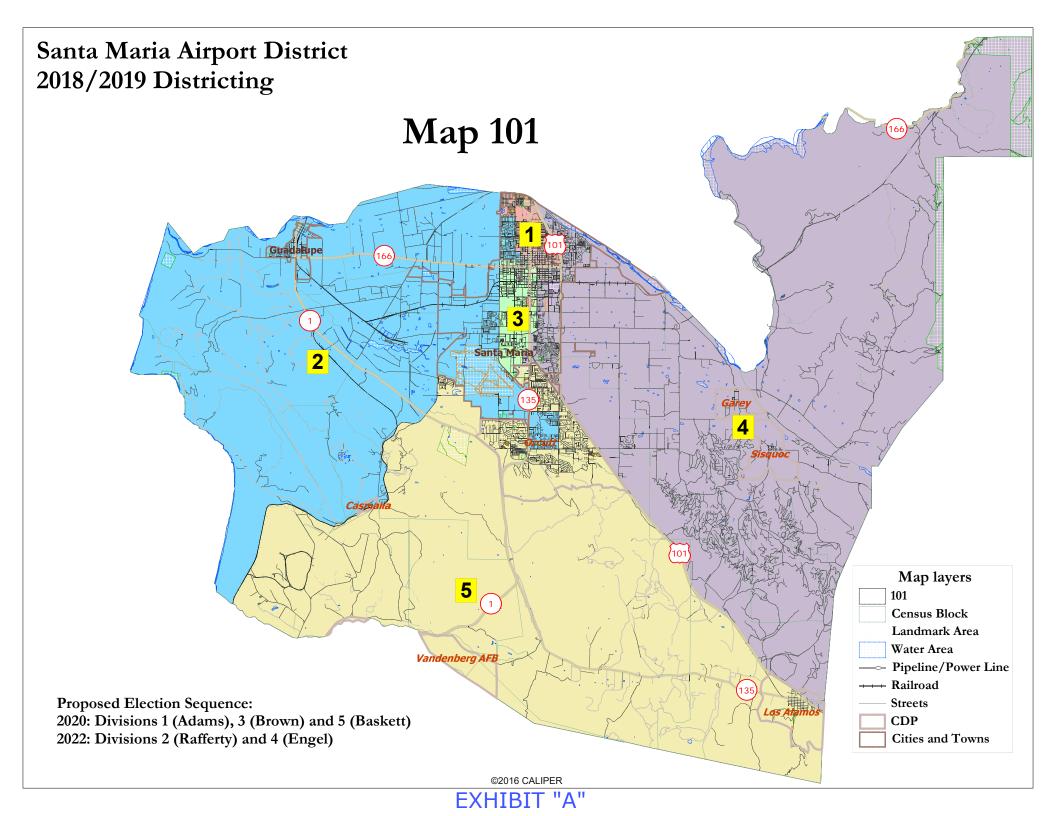
Approved as to form for District:

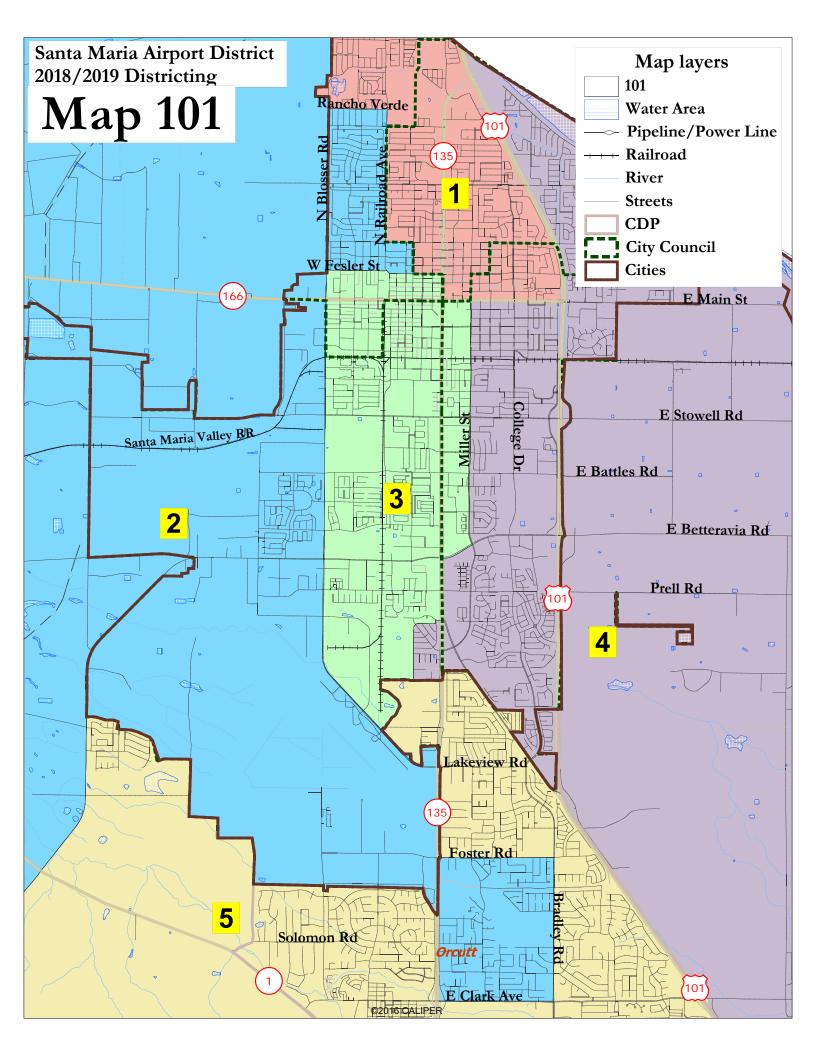
By: \_\_\_\_\_

Hugh Rafferty, President

Carl Engel, Secretary

District Counsel





District	Santa Maria Air	1	2	3	4	5	Total
Ideal	Total Pop	28,232	28,274	29,412	28,935	27,916	142,76
<u>ideai</u>	Deviation from ideal	-322	-280	858	381	-638	1,496
28,554	% Deviation	-1.13%	-0.98%	3.00%	1.33%	-2.23%	5.24%
	% Hisp	73%	73%	81%	48%	28%	61%
	% NH White	20%	19%	13%	42%	64%	32%
Total Pop	% NH Black	1%	19/0	1%	2%	2%	1%
	% Asian-American	5%	5%	4%	6%	4%	5%
	Total	12,164	13,722	9,411	19,704	20,265	75,26
	% Hisp	55%	58%	56%	38%	20,203	43%
Citizen Voting Age Pop	% NH White	36%	34%	33%	52%	70%	48%
Chizen voung Age i op	% NH Black	1%	1%	2%	2%	2%	2%
	% Asian/Pac.Isl.	7%	6%	8%	7%	3%	6%
	Total						
	% Latino est.	8,951 64%	10,059 61%	6,708 60%	14,525 41%	16,999 22%	57,24 45%
	% Spanish-Surnamed	58%	55%		37%	22%	
Voter Registration (Nov	1			54%			40%
2016)	% Asian-Surnamed	1%	1%	1%	2%	2%	1%
	% Filipino-Surnamed	3%	3%	3%	2%	1%	2%
	% NH White est.	30%	33%	30%	53%	73%	49%
	% NH Black	1%	1%	2%	1%	2%	1%
	Total	6,344	7,377	4,791	11,062	14,196	43,76
	% Latino est.	60%	57%	56%	36%	20%	40%
Voter Turnout (Nov	% Spanish-Surnamed	53%	51%	50%	33%	18%	36%
2016)	% Asian-Surnamed	1%	1%	1%	1%	2%	1%
	% Filipino-Surnamed	3%	3%	3%	2%	1%	2%
	% NH White est.	35%	37%	34%	58%	75%	54%
	% NH Black	1%	1%	2%	1%	2%	2%
	Total	3,697	4,543	2,596	7,588	10,181	28,60
	% Latino est.	44%	47%	43%	26%	15%	29%
	% Spanish-Surnamed	40%	42%	38%	23%	13%	26%
Voter Turnout (Nov 2014)	% Asian-Surnamed	1%	1%	1%	1%	2%	1%
2014)	% Filipino-Surnamed	2%	3%	3%	2%	1%	2%
	% NH White est.	50%	47%	49%	68%	81%	65%
	% NH Black est.	2%	2%	2%	2%	1%	2%
ACS Pop. Est.	Total	28,828	28,722	31,632	30,858	28,923	148,90
÷	age0-19	34%	35%	40%	27%	26%	33%
Age	age20-60	51%	51%	51%	54%	50%	51%
	age60plus	15%	14%	8%	19%	24%	16%
- · ·	immigrants	36%	35%	42%	22%	11%	29%
Immigration	naturalized	27%	29%	14%	44%	55%	28%
	english	32%	35%	22%	59%	81%	46%
Language spoken at home	spanish	61%	60%	73%	34%	15%	48%
88r	asian-lang	5%	4%	3%	5%	2%	4%
	other lang	2%	1%	2%	2%	1%	2%
	Speaks Eng. "Less	<u> </u>	170	2/0	270	1/0	270
Language Fluency	than Very Well"	36%	34%	44%	18%	7%	28%
	hs-grad	48%	46%	34%	57%	62%	51%
Education (among those	bachelor	6%	8%	7%	16%	17%	11%
age 25+)	graduatedegree	3%	3%	2%	7%	11%	5%
Child in Household	child-under18	43%	46%	52%	32%	33%	40%
Pct of Pop. Age 16+	employed	60%	60%	63%	60%	59%	60%
	income 0-25k	22%	19%	25%	16%	11%	18%
	income 25-50k	30%	30%	31%	22%	19%	26%
Household Income	income 50-75k	19%	17%	20%	19%	19%	19%
Tousenoid income	income 75-200k	29%	31%	20%	39%	44%	34%
	income 200k-plus	1%	2%	1%	4%	7%	3%
	single family	80%	80%	50%	82%	92%	78%
Housing Stats	multi-family	20%	20%	50%	18%	8%	22%
0	rented	47%	45%	69%	34%	23%	42%
	owned	53%	55%	31%	66%	77%	58%
otal population data from the 20	10 Decensial Consus					1	
otai population data from the 20	To Decenniai Census.						
urname-based Voter Registration		alifornia Stat	ewide Databa	ase.			



# **SOLICITATION OF BIDS**

То

Interested Contractors

# **2019 Safety Project: Obstruction Removal**

February 6, 2019

- 1. The Santa Maria Public Airport District is seeking informal bids to perform the following work:
  - A. Attend a project kick-off meeting.
  - B. Perform a call to Underground Service Alert (USA). Secure a USA project tracking number.
  - C. Implement a safety program for all contractor operations.
  - D. Support securing Encroachment Permits from the City of Santa Maria and from Caltrans.
  - E. Implement a Traffic Control Plan for all work.
  - F. Remove trees within the work limits completely, including stumps and other slag, trunks, and stumps, off site.
  - G. Perform minor grading and dressing of former stump locations.
- 2. Contract Schedule and Time for Performance:

A.	Bids due on or before:	2:00 pm, February 14, 2019
B.	Award of Contract:	February 15, 2019
C.	Notice to Proceed, Day 1:	February 20, 2019
D.	Trees to be pushed over or all major limbs removed before:	March 1, 2019
E.	Site fully restored and all work complete:	5:00 pm, April 26, 2019

- 3. The Santa Maria Public Airport District reserves the right, after opening bids, to reject any or all bids, or to make award to the lowest responsible bidder and reject all other bids, and/or to waive any informalities or irregularities in any bid which it may deem necessary in the best interests of the Santa Maria Public Airport District.
- 4. Each bidder shall carefully examine the documents associated with this project and shall visit the site of the proposed work to become fully informed as to all existing conditions and limitations that may affect the execution of the work under the contract, and the bidder shall include in the prices bid, the cost of all incidentals and appurtenances.
- 5. The minimum wages to be paid for labor shall be not less than the general prevailing per diem wage and rates for overtime and general holidays as determined by the Director of the Department of Industrial Relations, State of California, pursuant to California Labor Code Sections 1770, 1773, and 1773.1.
- 6. Contractors to submit bids using the Bid Form provided (Attachment B) in a sealed envelope, addressed to the Santa Maria Public Airport District, Attention: Chris Hastert, General Manager, and delivered or mailed to 3217 Terminal Drive, Santa Maria, California, 93455. The envelope shall be plainly marked in the upper left-hand corner with the name and address of the bidder and shall bear the words: "2019 SAFETY PROJECT: OBSTRUCTION REMOVAL" followed by the date and hour of the opening of bids.



- 7. Attention is directed to the provisions of the Insurance Code of the State of California with reference to the writing of insurance policies and bonds covering risks located in this state and the premiums and commissions thereon. A bidder to whom the contract is awarded shall furnish satisfactory evidence that the requirements of said code have been observed.
- 8. Before the contract is executed on behalf of the District, a bidder to whom the contract has been awarded shall furnish to the District a policy or certificate of protective liability insurance in which the District shall be named as an additional insured with the bidder. The policy shall insure the District, its officers and its employees; the bidder, his employees and his subcontractors and their employees, and their heirs, agents, and employees; while acting within the scope of their duties, against all claims arising out of or in connection with the work to be performed and shall remain in full force and effect until the work is accepted by the District. The policy shall provide for the limits stated in the agreement with the District.
- 9. No assignment by the Contractor of any contract to be entered into in accordance with the Solicitation of Bids, or any part thereof, or of funds to be received thereunder, will be recognized by the awarding authority unless such assignment has had the prior approval of the awarding authority and the surety has had notice of such assignment in writing and has given his written consent thereto.
- 10. The work of this contract:
  - A. Provide certificates of insurance and documented proof of Workers Compensation.
  - B. Attend a project kick-off meeting at the site to review methods and procedures, to gain firsthand knowledge of city and state rights-of-way, and to discuss site access and work space. The site is currently being farmed in strawberries.
  - C. Provide assistance to Tartaglia Engineering in securing an encroachment permit from Caltrans (Highway 135 right-of-way) and from the City of Santa Maria (Foster Road right-of-way).
  - D. Implement traffic control plans that support shoulder closing including electronic sign boards, delineators, temporary signs, etc., as necessary.
  - E. Establish a temporary access point through the farmers perimeter fence off of Foster Road, thereby limiting the travel length along and adjacent to his field.
  - F. Proceed with the complete removal of all trees within the grouping identified on Attachment A. Removal consists of all limbs, leaves, branches, trunks, and stumps for all trees within the grouping. Stumps and roots to be removed down to a maximum diameter of 1-inch.
  - G. Proceed with the complete removal of all stockpiled trunks, slag, limbs, branches, etc., that have been placed within the footprint of this project.
  - H. Proceed with the complete removal of all remaining stumps of all former trees that have been cut down within the footprint of this project.
  - I. At the conclusion of the removal effort, the site shall be void of all tree parts and pieces, both the actual trees that were trimmed and removed, and the slag and stumps of former trees that exist within the project footprint.
  - J. Gain approval from the Engineer that all vegetation including stumps and roots have been removed before proceeding with backfill, compaction, and site dressing.
  - K. Using local / adjacent earth and earth from the Airport stockpile approximately two miles to the west, contractor to moisture condition, backfill, compact all voids to not less than 90% relative density, and surface grade and dress the area of work to the satisfaction of the Engineer.
  - L. Restore the perimeter fence around the strawberry field to pre-project conditions.



- 11. Tartaglia Engineering will prepare and provide a traffic control plan to address and support work along the shoulder of Highway 135 and the shoulder of Foster Road. In addition, Tartaglia will prepare / complete the encroachment permit applications with input from the contractor regarding license, workers compensation, hours of shoulder closure, duration, etc.
- 12. All fees associated with securing the encroachment permits shall be borne directly by the Airport District.
- 13. The Contractor can temporarily stockpile chips on the site, however all materials must be gone and the site fully restored by the end of the specified contract date: 5:00 pm, Friday, April 12.
- 14. Compensation to the Contractor shall be at the bid lump sum amount, after successful completion of the work. Periodic progress payments can occur, based on percent complete determined by the Engineer.
- 15. No Bid Bond, Performance Bond, or Payment Bond required.
- Due to the anticipated accelerated time for award of the contract immediately after the date of the bid, the contractor shall hold a valid California contractor's license at the time of bid: <u>A or C-61 / D-49 Tree Service</u>.
- 17. There is no Pre-Bid Job Walk for this project. Interested contractors are strongly encouraged to perform their own site visit to become fully aware of site conditions, the farmers fence and strawberry fields, the location of trees both on airport property and in the right-of-way, the extent of stumps remaining from previous tree removal efforts, and the extent and volume of stockpiled slag, trunks, and branches. Be respectful of the farmers operations, and do not park on the shoulder of the highway.
- 18. For questions regarding this Solicitation, the intent of the project, the scope of the work, or any other project-related questions, please contact:

John A. Smith Tartaglia Engineering Office: (805) 466-5660 john@tartaglia-engineering.com

- 19. Attachments:
  - A. Site / Location Plan
  - B. Bid Form
  - C. Draft Contract





# ATTACHMENT B BID FORM

## Bid Proposal For 2019 SAFETY PROJECT: OBSTRUCTION REMOVAL

To the Honorable Board of Directors Santa Maria Public Airport 3217 Terminal Drive Santa Maria, California 93455

Name of Contractor (Firm or Individual) Submitting Bid

Ladies and Gentlemen:

The undersigned, as bidder, hereby declares that he has carefully examined the site of the herein proposed work, the Notice Inviting Sealed Bids, the proposed form of Contract and all documents referred to therein as Contract Documents, including the plans and specifications, the bid security form for check or bond, and form of the performance bond and payment bond; that the only persons or parties interest in this proposal as principals are those named herein, and he proposes and agrees that if this proposal is accepted, that he will contract with the Santa Maria Public Airport District, in the form of the contract, within 10 days of the date of mailing of the award of the contract and the contract for execution, to provide all necessary labor, machinery, tools, apparatus, and other means of construction, and to do, perform and complete all the work and furnish and install all equipment, supplies and materials specified in the contract and plans and specifications, in the manner and time therein prescribed, and according to the requirements of the Engineer and the Board of Directors of the Santa Maria Public Airport District as therein set forth, all within the following timeline:

#### Notice to Proceed, Day 1:

Trees pushed over or all major limbs removed before: Trees removed, site fully restored, work complete: February 20, 2019 March 1, 2019 5:00 pm, April 26, 2019

and that he will take in full payment therefore the total lump sum bid amount set forth immediately below:

Total Bid Amount in Figures:

Total Bid Amount in Words:

In the event of discrepancy between words and figures, the words shall prevail.



<u>LOWEST RESPONSIBLE BIDDER</u>. In selecting the lowest responsible bidder, consideration will be given not only to the financial standing, but also to the general competence of the bidder for the performance of the work covered by the proposal. To receive favorable consideration, a bidder may be required to present evidence that he has successfully performed similar work of comparable magnitude or submit other evidence satisfactory to the District that he or his associates are personally competent to manage the proposed undertaking and to carry it forward to a successful conclusion. Professional integrity and honesty of purpose shall be essential requirements. Each bidder must furnish, if required, a record of past performance and experience and show that his organization, capital and equipment are adequate for the successful prosecution of the required work and its completion within the time specified.

<u>ADDENDA</u>: Addenda No.(s) \_\_\_\_\_\_ issued by the District amending, modifying, or supplementing the specifications, special provisions, or contract documents were taken into consideration in making this bid. The undersigned bidder has ascertained from District just prior to submitting this bid that he has received all addenda issued, if any.

<u>INTERESTED PRINCIPALS</u>: The names of all persons interested in the foregoing proposal as principals are as follows:

If the bidder or other interested persons is a corporation, state legal name of corporation and state of incorporation, also names, titles, and business address of president and manager thereof; if partnership, state full firm name and name and post office address of each partner; if individual, state first, middle, and last name in full and post office address. (If space is insufficient, use reverse side.)

<u>ACCEPTANCE</u>: It is understood and agreed that this bid may be accepted by the District at any time within thirty (30) calendar days after the bid opening date. Airport District reserves the right to reject any or all bids or to waive any informalities in the bidding. The basis of selection will be the lowest responsible bid when comparing the total bid amount of each bidding contractor.

#### LICENSE and REGISTRATION:

<u>License</u>: The undersigned is licensed in accordance with the laws of the State of California providing for the registration of contractors.

Contractor's License No. \_\_\_\_\_ Type of License \_\_\_\_\_

<u>Registration</u>: The individual / firm submitting a bid for the work of this project is duly registered with the State of California, Department of Industrial Relations (DIR) at the time of bid.

Contractor Registration No.



## FIRM INFORMATION:

Individual and / or Doing Business As (DBA)

Name of individual contractor: Business address:	
Signature of owner:	(required)
or <u>Partnership</u>	
Name of firm:Business address:	
Name: Title Address:	
Signature of partner:	(one required)
Name: Title Address:	
Signature of partner:	
Name: Title Address:	
Signature of partner:	
or <u>Corporation</u>	
Name of corporation: Business address: Corporation organized under the laws of the State of:	
Signature of president of corporation:	(one required)
Signature of secretary of corporation:	



#### **BIDDER CERTIFICATION and SIGNATURE:**

The undersigned hereby certifies that this proposal is genuine and not sham or collusive or made in the interest or in behalf of any person not herein named, and the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm, or corporation to refrain from bidding; the undersigned has not in any manner sought by collusion to secure for himself an advantage over any other bidder.

In conformance with current statutory requirements of Section 1860, et seq. of the California Labor Code, the undersigned confirms the following as his certification:

I am aware of the provisions of Section 3700 of the 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 before commencing the performance of the work of this contract.

NOW, in compliance with the Solicitation and all the provisions herein before stipulated, the undersigned, with full cognizance thereof, hereby proposes to perform the entire work for the lump sum bid amount upon which award of contract is made.

Dated this \_\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

Type or print legal name:\_\_\_\_\_

Authorized signature: \_\_\_\_\_\_ (required)

Title: \_\_\_\_\_

Address of bidder for notices:

Telephone: \_\_\_\_\_



# ATTACHMENT C

# **DRAFT CONTRACT**

THIS AGREEMENT, made and entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 201\_ by and between the SANTA MARIA PUBLIC AIRPORT DISTRICT, hereinafter referred to as "District", and \_\_\_\_\_\_, a California Corporation, hereinafter referred to as "Contractor".

WHEREAS, District has accepted the Bid Proposal of Contractor for the work and services to be performed for a project identified as "2019 SAFETY PROJECT: OBSTRUCTION REMOVAL" (herein called the "Project").

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. For and in consideration of the payments and agreements hereinafter mentioned, Contractor agrees to complete the Project before 5:00 pm, Friday, April 26, 2019, based on receipt of Notice to Proceed on February 20, 2019, in a good, workmanlike manner, to the satisfaction of District, and in accordance with the terms, conditions, agreements and provisions of the Contract Documents, and to do all the work and furnish all the labor, materials, supplies, equipment, utility and transportation services, and other items necessary to complete the Project as aforesaid. Contractor agrees to receive and accept the prices set forth in the following schedule for full compensation for doing and completing all the work and furnishing all labor, materials, and other items contemplated and embraced in this Agreement, as well as for all loss or damage arising out of the nature of the work or from the action of the elements or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by District, and for all risks of every description connected with the work, and for all expenses incurred by or in consequence of the suspension or discontinuance of work, to wit:

Total, Lump Sum Contract Amount:



2. <u>Contract Documents</u>. This Agreement (Attachment C) and the following provisions or documents, each of which is annexed hereto or is on file at the office of the General Manager of the Santa Maria Public Airport District, are hereby incorporated herein and made a part hereof as though set forth in length herein:

- (a) Solicitation of Bids
- (b) Site / Location Plan (Attachment A)
- (c) Contractor-Completed Bid Form (Attachment B)
- (d) This Agreement (Attachment C)

This Agreement and the foregoing described provisions and documents are together hereinafter referred to as the "Contract Documents" or "Contract" which are intended to be complementary so that any work or obligation called for in one, and not mentioned in the other, or vice versa, is to be performed the same as if mentioned in all said provisions and documents.

3. <u>Definition of Terms</u>. Whenever the following words, terms or abbreviations are used in any of the Contract Documents, the intent and meaning shall be interpreted as follows:

Airport - Santa Maria Public Airport.

<u>City</u> - City of Santa Maria.

<u>Completions</u> - Work shall be deemed complete only after acceptance by District.

District - Santa Maria Public Airport District.

<u>District Inspector or Inspector</u> - A duly authorized representative of District assigned by District to make inspections of the work performed by Contractor.

<u>District Manager</u> - General Manager of the Santa Maria Public Airport District or his duly authorized representative.

Owner - Santa Maria Public Airport District.

<u>Proposal</u> - The bid proposal of Contractor for the work submitted to District.

Work - The Project covered by this Agreement.

4. <u>Equipment - Performance of Work</u>. Contractor shall furnish all tools, equipment, apparatus, facilities, labor and material necessary to perform and complete in a good and workmanlike manner the work called for, and in the manner designated in and in strict conformity with the provisions and conditions of the Contract Documents.

The equipment, apparatus, facilities, labor and materials shall be furnished and said work performed and completed as required by the Contract Documents.



5. <u>Change Orders.</u> District reserves the right to make alterations, deviations, additions to or omissions from the work. Any such changes will be set forth in a written change order specifying the changes, adjustments of contract time, if any, and compensation for any work ordered. A change order will not be effective unless signed by Contractor and District.

6. <u>Option of District to Terminate Agreement in Event of Failure to Complete Work</u>. If Contractor shall have refused or failed to prosecute the work, or any severable part thereof, with such diligence as will ensure its completion within the time specified, or any extensions thereof, or shall have failed to complete said work within such time, or if Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of Contractor's.

7. <u>Time for Completion; Liquidated Damages</u>. Contractor shall commence work hereunder as soon as possible after receipt of a written Notice to Proceed from District and shall diligently prosecute the work so as to have the Project completed within the time identified in the Solicitation:

Completion Requirement A.<br/>Completion Requirement B.Trees pushed over or all major limbs removed before:<br/>Trees removed, site fully restored, work complete:March 1, 2019<br/>April 26, 2019

A reasonable allowance for the time during which Contractor is delayed in said work by the acts or neglect of District or its employees or those under District by contract or otherwise, or by acts of God which Contractor could not have reasonably foreseen and provided against, or by storm and inclement weather which delay the work, or by any strikes, boycotts, or like obstructive action by employee or labor organizations or any general strike, or by organization of employees, shall be added to the aforesaid time for completion. In view of the difficulty to ascertain the amount of damages required to properly compensate District for failure of Contractor to complete the Project within the time fixed by this Agreement, Contractor shall pay to District the sum of \$500.00 per calendar day as liquidated damages for each calendar day that Project shall remain incomplete passed the date herein established for Completion Requirement A. Contractor shall pay to District the sum of \$1000.00 per calendar day as liquidated damages for each calendar day that Project shall remain incomplete past Completion Requirement B.

**8.** <u>Permits; Compliance with Law</u>. Contractor shall, at Contractor's expense, obtain all necessary permits and licenses required by law and by the Contract Documents, with the following exceptions:

A. District will pay directly the fees for encroachment permits.

# 9. <u>Control of Work</u>.

(a) <u>Authority of District Manager</u>. The District Manager shall have the authority to make final decisions concerning the quality and acceptability of the work performed, the rate of progress, interpretation of the Contract Documents, fulfillment of the Contract by Contractor, and all questions concerning compensation.

Should the District Manager question the compliance with the Contract Documents or the orders of the District Manager by Contractor, District Manager shall have the authority to stop all work immediately. Contractor, upon receipt of a written order, shall immediately suspend work wholly or in part. The work shall be resumed when ordered in writing by District Manager.

District Manager shall have the authority to stop the work at any time for any reason he deems justifiable and appropriate. If the reason for such an order to stop work is not the fault of Contractor, in the discretion of District Manager, then District Manager shall have authority to compensate Contractor for such loss of time by approving in writing an extension of time for completion and the amount of compensation to Contractor for such loss of time.



(b) <u>Interpretation of Contract Documents</u>. Should it appear that any work is not sufficiently detailed or explained in the Contract Documents, Contractor shall apply to the District Manager for further explanation. Should a question arise with respect to the true meaning of the Contract Documents, District Manager's decision shall be final. If a discrepancy between a drawing and a figure written thereon should occur, the figure shall be taken as correct.

(c) <u>Defective Work</u>. Any work that is not in accordance with the Contract Documents shall be corrected by Contractor at his expense.

**10.** <u>Superintendence by Contractor</u>. Contractor shall give personal superintendence to the work or have a competent foreman or superintendent satisfactory to District Manager on the work at all times during progress of the work with authority to act for him.

**13.** <u>**Inspection by District, City, and Caltrans.** Contractor shall at all times maintain proper facilities and provide safe access for inspection by District, City, or Caltrans to all parts of the work.</u>

14. <u>Permits and Care of the Work</u>. Except as otherwise specifically provided in paragraph 28, it shall be the responsibility of Contractor to examine the site of the work and be familiar with its condition, facilities or obstructions, and other physical factors and limitations affecting the performance of this Agreement. Indication in the Contract Documents of the existence of any such items shall in no way be construed as a warranty on the part of the District as to their precise location or that these are the only such items located or affecting the work or the site thereof. District in preparing the Contract Documents has made reasonable efforts to locate and identify any and all such items, but it is understood and agreed that District accepts no responsibility or liability for their location, character or existence. Should any facility be damaged, Contractor shall repair or replace it at his expense immediately.

**15.** <u>**Other Agency Involvement.**</u> Contractor is hereby advised that other governmental agencies as set forth below are involved in some manner with the administrative aspects of the improvements provided by this Contract. Contractor shall cooperate with representatives of the various agencies in the exercise of their duties. However, District shall administer the Contract, and Contractor shall look to District for direction regarding satisfactory completion of the Contract.

- (a) City of Santa Maria
- (b) FAA and NOAA
- (c) Caltrans

### 16. <u>Relationships and Responsibilities.</u>

(a) <u>Laws to be Observed</u>. Contractor shall keep himself fully informed of all state and federal laws and city or county ordinances where applicable and shall fully comply with the provision of such laws and ordinances.

(b) <u>Patents</u>. Contractor shall assume all costs, expenses and liabilities arising from the use of patented materials, equipment, devices or processes.

(c) <u>Inconvenience</u>. Contractor shall so conduct his operations as to offer the least possible obstruction and inconvenience to public traffic and rights of owners and users of adjacent property and he shall have under construction no greater length or amount of work than he can prosecute properly with due regard to such rights.



Convenient access to driveways and buildings along the line of work shall be maintained, and temporary approaches to crossings or intersecting roads or taxiways shall be provided and kept in good condition. To effect the above requirements, District Manager may order Contractor to provide necessary crossings or approaches and may limit the area in which Contractor may work at any one time. No extra payments shall be allowed Contractor for any such work so ordered by District Manager to maintain access for abutting owners or businesses.

(d) <u>Safety</u>. Contractor shall furnish, erect and maintain such fences, barriers, lights and signs as are necessary to give adequate warning at all times that the work is under construction and of any dangerous conditions to be encountered as a result thereof. Warning signs, lights and other safety devices shall conform to and follow the requirements of the Vehicle Code and of any sign manual issued by the Division of Highways of the State of California and any regulations adopted by the City of Santa Maria in effect at the time of construction. All such devices shall be furnished, erected and maintained subject to the approval of District Manager. At the end of each day's work and at other times when construction operations are suspended for any reason, Contractor shall remove all equipment and other obstructions from the portion of any roadway open for use by public traffic.

(e) <u>No Personal Liability</u>. Neither District Manager nor any District director, officer, employee, or authorized representative of the District shall be personally responsible for any liability arising under the Contract.

(f) <u>Guarantees and Correction of Work</u>. With respect to the Project, Contractor shall comply with District's Contract Documents' "Technical Specifications", "Quality Assurance", "Field Quality Control" and "References", as applicable, and comply with manufacturer's recommended installation practices. Where these may be in conflict, the more stringent requirements govern. Contractor shall provide District a copy of the warranty contract between Contractor and manufacturer at the preconstruction conference. Contractor shall, without expense to District, promptly repair, replace, restore or rebuild, as District may determine, any work in which defects of materials or workmanship appear or is found not to conform to the Contract Documents within one (1) year following District's issuance of a Notice of Acceptance, together with any other work which may be displaced, marred, or damaged because of such defects or correction.

(g) <u>Subcontracting</u>. Contractor shall give his personal attention to the fulfillment of the Contract and shall keep the work under his control. Before any work is started on a subcontract, Contractor shall file with District Manager a written statement of the work to be subcontracted, giving the names of the subcontractors and a description of the work to be done by each subcontractor. If a subcontractor is not doing satisfactory work, District Manager may request that he be replaced. The subcontractor shall be removed immediately and shall not go on the job site again.

(h) <u>Limit of Persons on Job Site</u>. District Manager may at any time by written direction, if good cause is shown, in his sole discretion require that any employee of Contractor be replaced. He may also require that Contractor limit access to the work site of any persons not employed by Contractor or an authorized subcontractor or who are not authorized representatives of District or the City.

(i) <u>Assignment</u>. The performance of the Contract may not be assigned except upon the written consent of District expressed by its governing body. Consent will not be given to an assignment which would relieve Contractor of his responsibility under the Contract.



(j) <u>Use of Completed Portions</u>. District shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work on such portions may not have expired, but such taking of possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents.

**17.** <u>Other Contracts</u>. District may award other contracts for additional work, and Contractor shall fully cooperate with such other contractors and carefully fit Contractor's own work to that provided under other contracts as may be directed by District Manager. Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor.

## 18. <u>Method of Payment</u>.

(a) <u>Progress Payments</u>. Progress payments made monthly based on District agreed upon progress over the previous 30-day work period. Payment shall reflect a deduction of five percent (5%) from the total thus computed, and from the remainder there shall be further deducted any amounts due District from Contractor for supplies or materials furnished or services rendered and any other amounts that may be due District under the terms of the Contract. Any amount in dispute between District and Contractor shall also be deducted. From the balance thus determined shall be deducted the amount of all previous payments and the remainder shall constitute the Progress Estimate for that month.

Upon each Progress Payment being made in writing, District (unless payment be withheld as provided in subparagraph (c) hereof) within fifteen (30) working days after the date of such estimate, except as stipulated hereinafter, shall pay to Contractor the amount stated in such estimate to be due Contractor; provided, however, that District may at all times reserve and retain from such partial payments, or any other amount, in addition to the retained percentage and other estimates, any sum or sums which by the terms hereof, of any law of the State of California, it is or may be authorized or required to reserve or retain; and provided, further, that no such progress estimate or payment shall constitute an acceptance of the work or any portion thereof. The percentage deducted as above set forth shall become due and payable with and as a part of the final payment to be made as hereinafter provided.

(b) <u>Suspension of Payments</u>. If, after written notice to Contractor of any deficiencies in his work because of failure to comply with the Contract provisions, construction schedule, or of a failure to revise and keep current with his construction schedule, District Manager recommends that all payments due or to become due under the Contract should be suspended until Contractor corrects any such deficiency, District may suspend all payments due or to become due until such deficiencies as remain uncorrected are correct.

In addition to the amount which District may retain as provided hereinabove, District may withhold a sufficient amount or amounts of any payment or payments otherwise due Contractor as in its judgment may be necessary to cover:

- (1) Payments which may be past due and payable for just claims against Contractor or any subcontractor for labor or materials furnished in or about the performance of the work on the Project under this Contract.
- (2) For defective work not remedied.
- (3) For failure of Contractor to make proper payments to any of his subcontractors, suppliers, material, men or equipment renters.
- (4) Reasonable doubt that the Contract can be completed for the balance then unpaid.



District may apply such withheld amounts to the payment of such claims in its discretion. In so doing, District shall be deemed the agent of Contractor and any payment so made by District shall be considered as a payment made under this contract by District to Contractor, and District shall not be liable to Contractor for such payment made in good faith. Such payment may be made without prior judicial determination of the claim or claims. District will render to Contractor a proper accounting of such funds disbursed on behalf of Contractor.

(c) <u>Undisputed Payments</u>. Pursuant to Public Contract Code Section 20104.50, if applicable, if District fails to make any progress payment within thirty (30) days after receipt of an undisputed and properly submitted payment request form Contractor, District shall pay interest to Contractor at the legal rate set forth in Code of Civil Procedure Section 685.010(a). Upon receipt of a payment request, District shall promptly review the request. District shall return to Contractor any payment request which District determines is not proper no later than seven (7) days after receipt, together with a document setting forth in writing the reasons why the payment request is not proper. The period within which District may make a payment without incurring interest shall be reduced by the number of days by which the District exceeds the seven (7) day return requirement.

## (d) <u>Final Estimate and Payment</u>.

(1) <u>Notice of Completion</u>. Upon receipt by him of a written notice from Contractor that the Project is ready for final inspection, District Manager shall promptly inspect the Project and, if he finds it has been fully completed in accordance with the Contract Documents, he shall certify that the Project has been fully completed in accordance with the Contract Documents and has been accepted by him. Within ten working days after receipt of such certificate from District Manager, District shall execute, verify, and record a Notice of Completion of the Project.

(2) <u>Final Payment</u>. Notwithstanding any other provisions of the Contract Documents, the final remaining unpaid balance due Contractor under this contract and work done and materials furnished hereunder shall be paid to Contractor by District on the 35<sup>th</sup> day following recording of the Notice of Acceptance or within sixty (60) days of "completion" as defined in Labor Code Section 7107, whichever first occurs, provided there are no stop notices filed pursuant to Chapter 4 of Title XV, Part 4, Division 3 of the California Civil Code or a public works preliminary bond notice as provided in Section 3091 of the Civil Code by subcontractors, material men or others for labor performed, work done or materials furnished in or for performance of the Contract. Except as otherwise specifically provided by law, in the event of a dispute between District and Contractor, the District may withhold from the final payment an amount not to exceed 150 percent (150%) of the disputed amount.

(3) <u>Final Payment as Waiver</u>. Neither recordation of a notice of completion of the Project by District, payment to Contractor by District of the full Contract Price, or occupation of the Project by District shall relieve Contractor of liability for defective materials or workmanship used in the construction of the Project or for failure to construct the Project according to the requirements of the Contract Documents. Acceptance by Contractor of any payment provided for in the Contract Documents shall be a representation by Contractor to District that all work on the Project required by the Contract Documents to be performed before such payment becomes due has been completed by Contractor in accordance with the Contract Documents. Except as provided in any special guarantees contained in the Contract Documents, but notwithstanding any guarantees by the manufacturers of any materials used in the construction of the Project, Contractor shall remedy any defects due to faulty materials or workmanship and pay for any damage to other work resulting therefrom which shall appear within a period of one (1) year from the date of receipt by him of final payment of the Contract Price, the date substantial occupancy of the Project was taken by District, or the date of recordation of a notice of acceptance of the Project by



District, whichever is earliest. District shall deliver notices of all observed defects to Contractor with reasonable promptness.

The making and acceptance of the final payment of the Contract Price shall constitute a waiver by Contractor of all claims, except those previously made and still unsettled.

(e) <u>Extra Work</u>. There will be no payment for extra work by Contractor or subcontractors unless it is expressly authorized in writing by District prior to the extra work being done. Reference is made to other provisions of the Contract regarding change orders for extra work and those provisions shall be strictly complied with. See paragraph 5 of this Contract.

(1) <u>General</u>. New or unforeseen work will be classified as "extra work" when the District Manager determines that it is not covered by the plans and specifications as they reflect the scope of work.

### (2) <u>Payment:</u>

a) <u>General</u>. When the price for the extra work cannot be agreed upon, District will pay for the extra work based on the accumulation of costs as provided herein.

### b) <u>Basis for Establishing Costs</u>:

1) <u>Labor</u>. The costs of labor will be the actual cost for wages of workers performing the extra work at the time the extra work is done, plus employer payments of payroll taxes, workers' compensation insurance, liability insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the extra work cost will not be permitted unless Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental. The labor cost for foremen shall be proportioned to all of their assigned work and only that applicable to extra work shall be paid.

Non-direct labor costs including superintendence shall be considered part of the markup of subparagraph (c) of this paragraph.

2) <u>Materials</u>. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available and delivered to the job site in the quantities involved, plus sales tax, freight and delivery.

District reserves the right to approve materials and sources of supply, or to supply materials to Contractor if necessary for the progress of the Project. No markup shall be applied to any material provided by District.

3) <u>Tool and Equipment Rental</u>. No payment will be made for the use of tools which have a replacement value of \$200 or less.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the work is performed.

The rental rates paid shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the extra work shall be included. If



equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to District than holding at the Project site, it shall be returned, unless Contractor elects to keep it at the Project site at no expense to District. All equipment shall be acceptable to District Manager, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and manufacturer's approved modifications shall be used to classify equipment, and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

The reported rental time for equipment already at the Project site shall be the duration of its use on the extra work, commencing at the time it is first put into actual operation on the extra work, plus the time required to move it from its previous site and back or to a closer site.

4) <u>Other Items</u>. District may authorize other items which may be required on the extra work. Such items include labor, services, material and equipment which are different in their nature from those required for the Project and which are of a type not ordinarily available from Contractor or any of the subcontractors.

Invoices covering all such items in detail shall be submitted with the request for payment.

5) <u>Invoices</u>. Vendors' invoices for material, equipment rental, and other expenditures, shall be submitted with the request for payment. If the request for payment is not substantiated by invoices or other documentation, District may establish the cost of the item involved at the lowest price which was current at the time of the report.

c) <u>Markup</u>:

1) <u>Work by Contractor</u>. The following percentage shall be added to Contractor's costs and shall constitute the markup for all overhead and profits:

Labor	10%
Materials	10%
Equipment Rental	10%
Other Items and Expenditures	10%

To the sum of the costs and markups provided for in this subsection, one percent (1%) shall be added as compensation for bonding, if additional bonding is actually secured.

2) <u>Work by Subcontractor</u>. When all or any part of the extra work is performed by a Subcontractor, the markup established in subparagraph (c) of this paragraph shall be applied to the subcontractor's actual cost of such work, to which a markup of 10 percent (10%) on the first \$2,000 of the subcontracted portion of the extra work and a markup of 5 percent (5%) on work added in excess of \$2,000 of the subcontracted portion of the extra work may be added by Contractor.

(3) <u>Daily Reports by Contractor</u>. When the price for the extra work cannot be agreed upon, Contractor shall submit a daily report to District Manager on forms approved by District, together with applicable delivery tickets, listing all labor, materials, and equipment involved for that day, and for other services and expenditures when authorized. Failure to submit the daily report by the close of the next working day may waive any rights for that day. A good faith effort shall be made to reconcile the report daily, and it shall be signed by District Manager and Contractor. In the event of disagreement, pertinent notes shall be entered by each party to explain points which cannot be resolved immediately. Each



party shall retain a signed copy of the report. Reports by subcontractors or others shall be submitted through Contractor.

The report shall:

- a) Show names of workers, classifications, rates of pay including benefits, and hours worked.
- b) Describe and list quantities of materials used together with unit prices.
- c) Show type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable.
- d) Describe other services and expenditures in such detail as District may require.

(f) <u>Changed Conditions</u>. Contractor shall notify the District Manager in writing of the following Project site conditions, hereinafter called changed conditions, promptly upon their discovery and before they are disturbed:

(1) Subsurface or latent physical conditions differing materially from those represented in the plans and specifications;

(2) Unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character being performed; and

(3) Material differing from that represented in the Contract which Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law.

District Manager will promptly investigate conditions which appear to be changed conditions. If District Manager determines that the conditions are changed conditions and that they will materially increase or decrease the costs of any portion of the Project, a change order will be issued adjusting the compensation for such portion of the Project in accordance with paragraph 5. If District Manager determines that conditions are changed conditions and that they will materially affect the performance time, Contractor, upon submitting a written request, will be granted an extension of time subject to the provisions of paragraph 7.

If District Manager determines that the conditions of which it has been notified by Contractor do not justify an adjustment in compensation, Contractor will be so notified in writing. This notice will also advise Contractor of his obligation to notify District Manager, in writing, if Contractor disagrees.

Should Contractor disagree with such determination, he may submit a written notice of potential claim to District Manager before commencing the disputed work. In the event of such a disagreement, Contractor shall not be excused on account of that disagreement from any scheduled completion date provided for by the Contract, but shall proceed with all work to be performed under the Contract. However, Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.



19. Indemnification. Contractor shall indemnify, defend (with counsel acceptable to District) and hold harmless District, its directors, officers, employees, agents and representatives ("District, etc.") at all times from and against any and all suits, proceedings, liens, actions, penalties, liabilities, losses, expenses, claims or demands of any nature, including costs and expenses for legal services and causes of action of whatever character which District may incur, sustain or be subjected to ("suits, etc.") on account of loss or damage to property and loss of use thereof and for bodily injury to or death of any persons (including but not limited to property, employees, subcontractors, agents and invitees of each party hereto) arising out of or in any way connected with the services or work to be performed by Contractor or Contractor's agents, employees, invitees or subcontractors, or Contractor's operations or presence on the Airport. The foregoing indemnification excludes only liability or loss caused by the sole active negligence of District or its willful misconduct. Tenant shall also indemnify and hold "District, etc." harmless from and against any "suits, etc." including third party claims, environmental requirements and environmental damages (as defined in Attachment 3), costs of investigation and cleanup penalties, fines, and losses (including, without limitation, diminution in property value of the Airport or the improvements thereon) of whatever kind or nature which result from or are in any way connected with the release, receipt, handling, use, storage, accumulation, transportation, generation, discharge, or disposal ("release, etc.") of any toxic or hazardous materials (defined in Attachment 3) which occurs in, on or about the Airport or elsewhere as the result of any of Contractor's or Contractor's agents, employees, invitees or subcontractors' activities pursuant to this agreement. Contractor shall notify District immediately of any "release, etc." of any toxic or hazardous material on the Airport.

**20.** Public Liability and Property Damage Insurance; Protection and Restoration of Property. Contractor shall, at his expense, take out and maintain during the life of the Contract such public liability and property damage insurance as shall protect him and District and any subcontractor performing work covered by this Contract from claims for personal injury or death or property damage which may arise because of the nature of the work or from operations under this Contract, whether such operations be by himself or by any subcontractor, or anyone directly or indirectly employed by either of them, even though such damages be not caused by the negligence of Contractor or any subcontractor, or anyone employed by either of them. Any insurance shall be primary, not excess, insurance. The amounts of such insurance shall be as follows:

(a) Contractor's general liability insurance, including Owner's and Contractor's protective liability and contractual coverage, providing bodily injury or death liability limits of not less than \$1,000,000 for each accident or occurrence, and property damage liability with a single limit liability of not less than \$1,000,000 for each accident or occurrence.

(b) Automobile liability insurance covering all vehicles used in the performance of the Contract providing bodily injury or death liability limits of not less than \$300,000 for each person and \$500,000 for each occurrence, and property damage liability with a single limit liability of not less than \$300,000 for each accident or occurrence.

Before or concurrently with the execution of the Contract, Contractor shall file with District a certificate or certificates of insurance, issued by the insurance carrier, covering the specified insurance and a complete copy of each insurance policy. Each such certificate and policy shall bear an endorsement precluding the cancellation, or reduction in coverage, of any policy before the expiration of thirty (30) days after District shall have received notification by registered mail from the insurance carrier.

Nothing herein contained shall be construed as limiting the liability of Contractor. District shall be named as an additional insured in the policies.



**21.** <u>**Protection of Property.**</u> Contractor shall use suitable precautions to prevent damage to any public or private property and shall not remove any monuments or property markers until directed to do so. Contractor shall take every necessary precaution against injury or damage to any part of the work or Project by action of the elements or from any other cause whatsoever.

Contractor shall rebuild, repair, restore and make good, at his expense, all injuries or damages to any portion of the work occasioned by any of the above caused before completion and acceptance of the Project as provided in this Agreement.

22. <u>Nonpayment of Wages</u>. If Contractor or any subcontractor fails to pay any laborer or mechanic employed or working on the Project any of the wages required by this Contract, District may, after written notice to Contractor, take such action as may be necessary to cause the suspension of any further payment or advance of funds until the violations cease.

**23.** <u>Worker's Compensation</u>. Pursuant to the requirements of Section 1860 of the Labor Code of the State of California, Contractor will be required to secure the payment of compensation to his employees in accordance with the provisions of Section 3700 of the Labor Code of the State of California. By execution of this Agreement, Contractor does hereby certify as follows: "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the work of this Contract".

24. <u>Wage Rates: Penalty</u>. Not less than the general prevailing per diem wage rates and rates for overtime and holidays for the Santa Maria locality as determined by the Director of Industrial Relations, State of California, pursuant to California Labor Code Sections, 1770, 1773, and 1773.1, shall be paid to workmen employed on the Project under the Contract. Contractor is subject to and shall comply with the provisions of Section 1775 of the Labor Code of the State of California. Contractor shall forfeit to District not more than Fifty Dollars (\$50.00) (as determined by the Labor Commission) for each calendar day or portion thereof for each worker paid less than the said prevailing rates for such work or craft in which such worker is employed or for work done under the contract or by any subcontractor. The difference between such prevailing wage rates and the amount paid to each worker for each worker by Contractor. Contractor is responsible for ascertaining and complying with all changes in rates subsequent to the submission of the bid proposal of Contractor to District.

**25.** <u>Hours of Labor</u>. In accordance with the provisions of Articles 1 and 3 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California, eight (8) hours labor shall constitute a legal day's work, and no worker in the employ of Contractor or any subcontractor doing or contracting to do any part of the work contemplated by this Contract shall be required or permitted to work more than eight (8) hours in any one calendar day, and forty (40) hours during any one calendar week, except as provided in Section 1815 of the Labor Code. Contractor and each subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed on work contemplated by this Contract, and Contractor shall forfeit, as a penalty to District, the sum of Twenty-five Dollars (\$25.00) for each worker employed in execution of this Contract by him or by any subcontractor for each calendar day and forty (40) hours in any one calendar week in violation of provisions of said Article 3, Chapter 1, Part 7, Division 2 (Section 1810 et seq.) of the Labor Code.



26. Existing Utility Facilities (Government Code Section 4215). As between Contractor and District only, District assumes the responsibility for the removal, relocation or protection of existing main or trunkline utility facilities located on the site of the work, if such utilities are not identified in the plans or specifications made a part of the invitation for bids.

Contractor shall not be assessed liquidated damages for delay in completion of the work when such delay is caused by failure of District or a utility owner to provide for removal or relocation of such existing utility facilities; provided, however, that if facilities are encountered but are not identified by District in the Contract plans or specifications, he shall immediately notify District in writing. If Contractor shall fail to so notify District, he may be assessed liquidated damages as set forth in the Contract Documents for any delay in completion of the work caused by such utility facilities on the basis of one (1) day for each day Contractor shall permit to elapse between discovery of such utility facilities and such written notification to District thereof.

Nothing herein shall require District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes on or adjacent to the site of the construction project.

Should any utility facility identified in the plans or specifications, or otherwise described in the immediately preceding paragraph, be damaged by Contractor, Contractor shall promptly restore the damaged utility to its original condition at his expense.

**27.** <u>General</u>. Time is of the essence of this Contract. This Agreement and the Contract Documents contain all of the agreements and conditions made between the parties, and may not be modified orally or in any other manner than by an agreement in writing signed by the parties hereto. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, the remaining provisions shall continue in full force and effect and shall in no way be invalidated thereby.

Captions herein are for convenience of reference only and shall not govern the construction of this Agreement. Contractor shall comply with all applicable federal, state and local laws, regulations, ordinances and orders, including without limitation the rules and regulations of the Santa Maria Public Airport District governing the use and occupancy of the Santa Maria Public Airport.

**28. Payroll Records.** Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him in connection with the public work. The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor in the manner provided in Labor Code Section 1776. In the event of noncompliance with the requirements of this section, Contractor shall have ten (10) calendar days to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this Section. Should noncompliance still be evident after such 10-day period, Contractor shall, as a penalty to District, forfeit the sum of Twenty-five Dollars (\$25.00) for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The responsibility for compliance with this section is with Contractor. District may withhold other amounts due at the request of the Division of Labor Standards or other agency having jurisdiction.



**29.** <u>Labor Discrimination</u>. No discrimination shall be made in the employment of persons on the work by Contractor or by any subcontractor because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex except as provided by Section 12940 of the Government Code.

**30.** <u>Attorneys' Fees</u>. In the event that any action or arbitration is brought by either party against the other party for the enforcement or declaration of any right or remedies in or under this Agreement or for the breach of any covenant or condition of this Agreement, the prevailing party shall be entitled to recover, and the other party agrees to pay all fees and costs to be fixed by the court or arbitrator therein including, but not limited to, attorneys' fees.

**31.** <u>Notice to Proceed</u>. No work, services, material, or equipment shall be performed or furnished under this Agreement unless and until a written notice to proceed has been given Contractor by District.

**32.** <u>Claims</u>. Contractor shall not make or have any claim for damages or anticipated profits or loss of profits or otherwise because of any difference between the quantities of work actually done and material furnished and those stated in any unit price items of the bidding sheet(s).

**33.** <u>**Hazardous Materials.**</u> Contractor specifically agrees that all materials used by Contractor for which a Material Safety Data Sheet is required, or otherwise referenced or listed on Attachment 3, will be stored, used and disposed of, together with any contaminated by-products of such use, in strict compliance with the applicable Material Safety Data Sheet or the requirements of the governmental agency with authority to regulate such storage, use and disposal. Contractor further agrees to maintain adequate storage and disposal facilities and will maintain for inspection at any reasonable time adequate records of material stored, used or disposed of, including but not limited to Material Safety Data Sheets and Uniform Hazardous Waste Manifests.

# 34. <u>Contractors Including Digging Trenches or other Excavations (Public Contract Code§7104).</u>

The contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any: (1) Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law. (2) Subsurface or latent physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.

The District shall promptly investigate the conditions, and if it finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.

In the event that a dispute arises between the District and the contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the contractor shall not be excused from any scheduled completion date performed under the contract. The contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

35. <u>Assignment by Contractor to District of Rights Under Federal Law Arising from Purchases</u> <u>Under Public Works Contracts (public Contract Code 7103.5)</u>. In entering into a public works contract or subcontract to supply goods, services or materials pursuant to a public works contract, the contractor or



subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act, (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

	IN WITNESS	WHEREOF,	the parties he	ereto have exe	cuted this A	Agreement t	he date and	year first
above	written.		_			-		

District						
Approved as to content SANTA MARIA PUBLIC AIRPORT DISTRICT						
for District:						
General Manager	By Hugh Rafferty, President					
Approved as to form for District:	By Carl Engel, Jr., Secretary					
District Counsel						
(District Seal)						
Contractor						
	By	(Title)				
(Corporate Seal if a corporation)	Dec	~ /				
	By	(Title)				

### Memorandum of Agreement Between Santa Maria Public Airport District & LYFT, Inc.

This Memorandum of Agreement ("Agreement"), is made and entered into by and between the Santa Maria Public Airport District ("District") and LYFT, Inc.)" LYFT".

**Recitals:** In a good faith effort to provide transportation network company ("TNC") service to the Santa Maria Public Airport ("Airport"), the District and LYFT agree to execute this Agreement to grant LYFT the ability to offer its mobile application ("App") on a non-exclusive basis at the Airport, and authorize TNC drivers the right and privilege to provide on-demand transportation services using TNC's app at the Airport.

**Agreement:** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. Upon execution of this Agreement and receipt of all required documentation and proof of compliance with the terms hereof (the "Commencement Date"), LYFT will be authorized to enable TNC services at the Airport for a period of one (1) year from the date of this Agreement ("Commencement Date"), unless revoked or cancelled as hereinafter provided.

2. LYFT shall pay to Airport, for the privilege of operating at the Airport, an amount equal to TWO DOLLARS AND FIFTY CENTS (\$2.50) per passenger pick-up or drop-off ("Per Trip Fee") anywhere inside the geo-fence attached hereto as Exhibit A. Payment of the Per Trip Fee for the preceding month shall be made to the Airport no later than the twentieth (20th) day of the following calendar month. Payment of the monthly Per Trip Fee which is not received by the thirtieth (30th) day of the month shall be subject to a late charge of ten percent (10%) of the total payment due and unpaid (total amount of all Per Trip Fees due), which shall be added to the payment and the total sum shall become immediately due and payable to the Airport.

3. LYFT shall, no later than the thirtieth (30th) day of each calendar month, submit to the Airport a report stating the total number of drop-offs and pick-ups made at the Airport in the preceding calendar month (the "TNC Activity Report"). The monthly report shall provide the following information for all individual pick-ups and drop-offs:

- i. Date and time and geographic location of individual pick-ups and drop-offs. Airport acknowledges that geographic location is subject to potential inaccuracies due to the GPS system; and
- ii. Last four digits of TNC vehicle license plate number.

LYFT shall maintain records and accounts relevant to LYFT's operation at the Airport. District may require LYFT, at its own expense, to have its records and accounts relevant to TNC operations at the Airport audited annually by an accountant licensed by the State of California and approved in advance by the District, and to present said audit to the District within one hundred and twenty (120) days after receipt of the written request from the District, provided that the accountant shall enter into an appropriate non-disclosure and confidentiality agreement consistent with paragraph 9 of this Agreement. Any annual audit shall be based upon agreed-upon procedures in accordance with AT 201 and shall be designed to provide District with

reasonable assurance of the completeness and accuracy of the Trips Fees reported by Operator to District. District may require LYFT, at its own expense, to have its records and accounts relevant to TNC operations at the Airport audited at any time during a one (1) year period following the termination of this Agreement.

4. In connection with its operations at the Airport, LYFT shall comply with all applicable local, state, and federal laws, rules, regulations, and procedures of federal, state and local governments, and in addition shall comply with Federal Aviation Administration, Transportation Security Administration, or successor agencies, governing conduct on and operations at the Airport. Prior to issuance of this Agreement, LYFT shall provide the Airport with a copy of its current CPUC permit and certify that it has met all CPUC safety requirements.

5. All TNC drivers and vehicles, upon entering Airport property and during transport of an Airport charge, shall be covered by automobile liability insurance of no less than \$1,000,000 per occurrence to cover bodily injury and property damage claims arising from a participating driver using a vehicle in connection with TNC services, including uninsured and underinsured motorists coverage during the period when the driver is in the act of transporting a passenger. Airport and the District, its officers, employees and agents shall be added as additional insureds via blanket endorsement under the automobile liability policy maintained by LYFT. The automobile liability policy shall also include a notice of cancellation endorsement, naming the District and its officers as insured, and which requires the insurer to provide not less than 30 days advance written notice of its intent to cancel the policy. As a condition precedent to this Agreement becoming effective, LYFT shall submit copies of all certificates of insurance and all endorsements required by this Agreement to the District. After the Initial Term, LYFT shall furnish Airport upon request, copies of a certificate of insurance and all endorsements.

6. Each TNC driver will maintain, on his or her smartphone, a "digital decal" while using the app on the Airport property that will be used to substitute for a tangible Airport transponder. The digital decal will allow the Airport, at any and all times, to confirm the following information for any TNC driver using the app while operating at the Airport:

- a. TNC driver identity and color photo;
- b. Vehicle make and model;
- c. License plate number;
- d. Certificates of insurance in accordance with state law;
- e. An electronic waybill.

7. TNC vehicles shall stage only in the designated staging area, pick-up areas are as follows:

- a) 3025 Airpark Dr, Santa Maria, CA 93455 (Museum of Flight)
- b) 3249 Terminal Dr, Santa Maria, CA 93455 (Passenger Terminal)
- c) 3455 Airpark Dr, Santa Maria, CA 93455 (Radisson)
- d) 3940 Mitchell Rd, Santa Maria, CA 93455
- e) 4000 S Blosser Rd Santa Maria, CA 93455
- f) 1211 Citation Ct, Santa Maria, CA 93455

8. All TNC vehicles shall post or display signage or trade dress displaying TNC's name and/or logo, which must be shared with the Airport prior to the commencement of operations, in the interior of the TNC vehicle. Any information that LYFT makes available to Airport pursuant to this Agreement is deemed to be confidential and proprietary information ("Confidential Information"), regardless of whether the records are marked as such, and shall not be disclosed to anyone without LYFT's express written permission unless required to be disclosed by applicable law or a court order; including without limitation the public records laws, provided that Airport notifies LYFT of such requirement promptly prior to disclosure, and provided further that Airport makes diligent efforts to limit disclosure pursuant to any available basis set forth in the California Public Records Act, Cal. Govt. Code sections 6250 et seq., or any other applicable law. If District receives a third-party request for Confidential Information LYFT shall be promptly notified prior to disclosure. If District is required to release any Confidential Information the District shall use any available authorities to redact personal or business confidential information from such records to the extent consistent with applicable law and any final judgment requiring the Confidential Information to be released.

LYFT agrees to defend, indemnify and hold harmless the District and its officers 9. and employees from and against all third-party suits, actions, claims, demands, penalties, fines, liabilities, settlements, damages, costs, attorney fees, and expenses of whatever kind or nature, known or unknown, contingent or otherwise, brought against the District because of injuries or damages sustained by any person, persons or property arising out of or resulting from a breach of this Agreement by LYFT, or LYFT's negligent acts or omissions at the Airport. Notwithstanding the foregoing, LYFT shall have no obligation under this paragraph for claims arising out of or related to (a) a willful, reckless, or negligent act or omission of District or its officers, directors, agents, and employees, or (b) any allegation related to the District's authority to enter this Agreement or District's enforcement of this Agreement. The foregoing indemnification obligation is contingent upon District providing LYFT with (i) prompt written notice of any potential claim subject to indemnification hereunder, (ii) sole control over the defense and settlement of each such claim (provided that LYFT will not settle or compromise any claim without written consent of District, which consent shall not be unreasonably withheld. conditioned or delayed), and (iii) reasonable cooperation, at LYFT's expense, in the defense and settlement of a claim.

10. This Agreement shall be effective on the Commencement Date and shall be in effect for a period of one (1) year thereafter ("Initial Term"). After the Initial Term, the term of this Agreement shall automatically convert to a thirty (30) day, month-to-month term, unless a Party sends a written notice of termination to the other Party at least thirty (30) days prior to the end of the then current term.

11. Each Party shall have the right to terminate this Agreement at any time without cause upon the delivery to the other party of at least thirty (30) days' prior written notice.

12. LYFT shall be in default under this Agreement if (i) LYFT fails to keep, perform or observe any of the terms set forth in this Agreement after receiving written notice of such failures from District and being provided a reasonable opportunity to cure such failures; (ii) LYFT fails to pay any Per Trip Fees within seventy-two (72) hours after a late fee is triggered as set forth in paragraph 2; or (iii) fails to submit any reports required in this Agreement when due. If LYFT is in default under this paragraph 13, the Airport may elect to allow this Agreement to continue in full force and effect and to enforce all of the Airport's rights and remedies hereunder, or terminate this Agreement immediately, without prejudice to any other remedy or right of action, upon giving such applicable notice, if any.

13. The following activities are prohibited by TNC drivers while operating under this Agreement (i) transporting passengers for hire on Airport property without using the mobile App; (ii) parking or standing while waiting for a passenger match while on Airport property, including, but not limited to, Airport parking lots or roads, (iii) leaving a vehicle unattended; (iv) failing to immediately comply with requests from Airport staff or Law Enforcement, to see proof of insurance, license and registration, prearranged waybill or confirmation that the App is activated while on Airport property or within the geo-fence identified on Exhibit A; and (v) solicitation of passengers on Airport property without a prearranged waybill.

14. This Agreement is made under and shall be governed by the laws of the state of California, without regard to conflicts of laws or principles which would apply the law of any other jurisdiction. Venue for any dispute arising out of or concerning this Agreement, either administrative or judicial, shall be proper and lie exclusively in Santa Barbara County, California.

**IN WITNESS WHEREOF**, District has caused this Agreement to be executed by the District, and LYFT has caused the same to be executed by its appropriate and authorized officer.

Approved as to form on behalf of District:

CHRIS HASTERT, General Manager

Approved as to form:

CARL ENGEL, Secretary

HUGH RAFFERTY, President

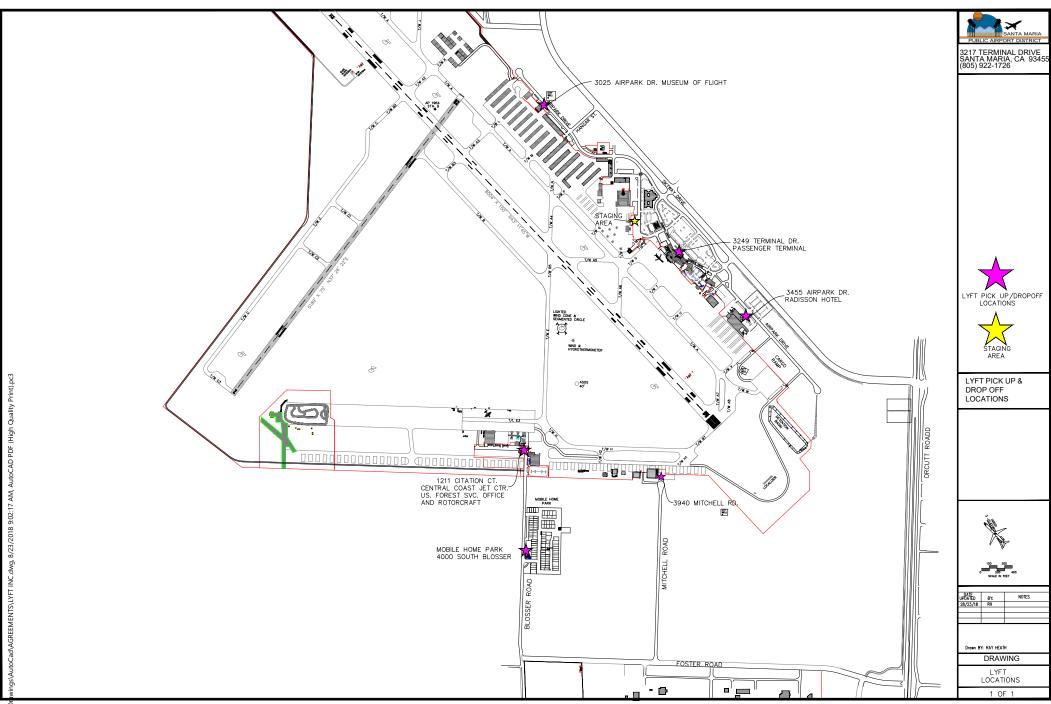
**DISTRICT:** 

District Counsel

LYFT:

Bakari Brock, Sr. Director

Date: February 6, 2019



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