

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Capital Improvement
AGENDA DATE: December 6, 2016
CONTACT PERSON/PHONE: Andrew Goh, City Engineer, (915) 212-1808
DISTRICT(S) AFFECTED: All

STRATEGIC GOAL 1: Create and Environment Conducive to Strong, Sustainable, Economic Development

SUBJECT:

A resolution that the City Manager be authorized to sign an Agreement for Professional Services Construction Management Contract by and between the City of El Paso and ECM International, Inc., a Texas corporation, for a project known as "EL PASO INTERNATIONAL AIRPORT CHECKED BAGGAGE INSPECTION SYSTEM", for an amount not to exceed One Million Five Hundred Seventeen Thousand Eight Hundred Sixty Nine AND 94/100 DOLLARS (\$1,517,869.94); and that the City Engineer be authorized to approve up to \$50,000 in additional services for a total contract amount not to exceed One Million Five Hundred Sixty Seven Thousand Eight Hundred Sixty Nine and 94/100 Dollars (\$1,567,869.94); and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of this agreement. Funding source: PFC and TSA.

BACKGROUND / DISCUSSION:

The consultant will be responsible for administering the construction contract, coordinating construction activities amongst all stakeholders, measuring project progress and performance, construction inspection, monitoring quality and compliance with contract requirements, constructability reviews, negotiating change orders, estimating cost of work, providing status reports, construction documentation, meeting minutes, daily reports and other documentation as required, providing value engineering recommendations, reviewing design alternatives, providing options to solutions, coordinating all issues arising from the project to ensure the contractor has all the necessary information to complete the project and monitoring safety in the construction area and maintaining alertness for any security threats that could impact the operation of EPIA. The contract shall be for twenty eight months and if the project is extended the consultant may request an extension.

The project will be coordinated with TSA and the airlines. Is funded by TSA and PFC
TSA: \$737,050.11
PFC: \$774,731.55

SELECTION SUMMARY:

PROTEST

- No protest received for this requirement.
 Protest received.

COUNCIL REPRESENTATIVE BRIEFING:

Was a briefing provided? Yes or Not Applicable (Routine)
If yes, select the applicable districts.

- District 1
- District 2
- District 3
- District 4
- District 5
- District 6
- District 7
- District 8
- All Districts

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Passenger Facility Changes and Transportation Security Administration

562-3080-62230-580270-PAP00640

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Scott Sengler for Andy Goh

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an agreement for Professional Services by and between the City of El Paso and **ECM INTERNATIONAL, INC.**, for a project known as “**EPIA CHECKED BAGGAGE INSPECTION SYSTEM**” for an amount not to exceed One Million Five Hundred Seventeen Thousand Eight Hundred Sixty Nine and 94/00 Dollars (\$1,517,869.94); and that the City Manager or Designee be authorized to approve up to \$50,000.00 in increased basic services and up to \$50,000.00 in Additional Services for a total contract amount not to exceed One Million Six Hundred Seventeen Thousand Eight Hundred Sixty Nine and 94/00 Dollars (\$1,617,869.94); and that the City Manager be authorized to establish the funding sources and make any necessary budget transfers and execute any and all documents necessary for execution of the Agreement.

ADOPTED THIS _____ DAY OF _____ 2016.

CITY OF EL PASO:


Oscar Leeser,
Mayor

ATTEST:

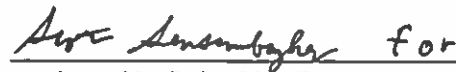
Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT



Sol M. Cortez
Assistant City Attorney

 for

Andrew H. Goh, City Engineer
Capital Improvement Department

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

**AN AGREEMENT FOR
PROFESSIONAL SERVICES
CONSTRUCTION MANAGEMENT**

This Agreement is made this ____ day of _____, 2016 by and between the **CITY OF EL PASO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the “**Owner**”, and **ECM INTERNATIONAL, INC.**, a Texas corporation, hereinafter referred to as the “**Consultant**”.

WHEREAS, the Owner intends to engage the Consultant to perform professional construction management services for a project known as, “**EPIA CHECKED BAGGAGE INSPECTION SYSTEM**”, hereinafter referred to as the “**Project**”, as further described in Attachment “**A**”; and

WHEREAS, the Consultant has been selected to perform such services as required by the Owner, and the Consultant was selected through the Owner’s selection procedure, in accordance with all applicable state and local laws and ordinances;

NOW, THEREFORE, for the consideration set forth in this Agreement and its attachments the Owner and Consultant agree as follows:

**ARTICLE I.
ATTACHMENTS**

1.1 The attachments listed herein and attached to this Agreement are incorporated herein by reference for all purposes.

Attachment “A”	Scope of Services
Attachment “B”	Consultant’s Fee Proposal and Hourly Rates
Attachment “C”	Consultant’s Basic and Additional Services
Attachment “D”	Payment and Deliverable Schedules
Attachment “E”	Insurance Certificate
Attachment “F”	Federal Aviation Administration contract provisions for Airport Improvements Program Projects

**ARTICLE II.
PROJECT**

2.1 The Owner hereby agrees to retain the Consultant and the Consultant agrees to perform construction management services for the Project as professional consultant for the Project. The

Project shall consist of the Consultant's completion of the Scope of Services as further described in **Attachment "A"**. Such Scope of Services shall be completed in accordance with the identified phases described in **Attachment "D"**.

2.2 In completion of such phases, the Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines in effect on the execution date of this Agreement in the performance of the services requested under this Agreement. Such Guidelines are available in the Capital Improvement Department.

2.3 The Consultant shall serve as the Owner's professional representative in those phases of the Project to which this Agreement applies and shall give consultation and advice to the Owner during the performance of services.

2.4 The Owner shall provide all available information to the Consultant, as to the Owner's requirements for each Project's construction contract. The Owner shall also provide to the Consultant, all known information pertinent to the Project site, including previous reports and other data relative to design, such as "as-built" drawings or physical conditions now existing at the Project site. In performing its services, the Consultant will be entitled to rely upon the accuracy of the Owner provided information.

2.5 The Owner hereby designates the City Engineer of the City of El Paso as the Owner's representative with respect to the professional services to be provided by the Consultant pursuant to this Agreement. The City Engineer shall have complete authority to transmit instructions, receive information, interpret and define the Owner's policies, and decisions with respect to materials, equipment, elements, and systems pertinent to the work covered by this Agreement. City Engineer will render written decisions within a five (5) working day time period.

ARTICLE III. CONSULTANT FEES AND PROJECT BUDGET

3.1 PAYMENT TO CONSULTANT. The Owner shall pay to the Consultant an amount not to exceed **ONE MILLION FIVE HUNDRED SEVENTEEN THOUSAND EIGHT HUNDRED SIXTY NINE AND 94/100 DOLLARS (\$1,517,869.94)** for all basic services and reimbursables performed pursuant to this Agreement.

The City Engineer may, without further authorization from the City Council and in a form approved by the City Attorney, increase the total payment identified for all basic services and reimbursables performed pursuant to this Agreement in an amount not to exceed **FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00)**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects.

In addition, if authorized in advance by the City Engineer, in a form approved by the City Attorney, the Consultant may perform such Additional Services as also enumerated within **Attachment "C"**

in an amount not to exceed **FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00)**, if such services are necessary for proper execution of any identified Projects and the increased amounts are within the appropriate budget identified for the identified Projects. Additional Services exceeding **FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00)** must have prior approval by City Council through written amendment to this Agreement.

The parties agree and understand that all fees and compensation to the Consultant shall only become due and payable in accordance with the terms of this Agreement and the fees to be charged for each Project shall be pursuant to the Consultant's fee proposal for such Basic and Additional Services at the rates which is attached hereto as **Attachment "B"**.

Payments to the Consultant shall be made pursuant to **Attachment "D"**.

3.2 CONSULTANT'S SERVICES. The Basic Services and Additional Services, if any, to be provided by the Consultant for this Agreement are attached hereto as **Attachment "C"**.

3.3 CONSULTANT'S INVOICES. The Consultant shall bill the Owner not more often than monthly, through written invoices pursuant to **Attachment "D"**. Invoices shall indicate the costs for outside consultants with copies of their invoices as back-up materials as well as other authorized direct costs for hourly rate contracts. All invoices shall be made in writing. Within ninety (90) days of substantial completion of construction of a Project, all outstanding invoices for all work completed to date by the Consultant shall be submitted to the Owner.

3.3.1 Each invoice shall contain a brief summary indicating, at a minimum, the total amount authorized for the Consultant, the current invoiced amount and the amount billed to date. In addition to the Summary, each invoice shall provide a Progress Report. The Progress Report shall describe, at a minimum, the progress of the Project to date also indicating the percentage of completion of the Project. The established schedule for completion shall not be revised except by written amendment to this Agreement, executed by both parties.

3.3.2 The Owner agrees to pay invoices for all services performed as soon as reasonably possible, but not later than thirty (30) calendar days from receipt. Upon dispute, however, the Owner may, upon notice to the Consultant, withhold payment to the Consultant for the amount in dispute only, until such time as the exact amount of the disputed amount due the Consultant is determined. The total amount paid to the Consultant shall not exceed the Consultant's fee proposal, except by written amendment to this Agreement, executed by both parties.

3.4 PROJECT CONSTRUCTION BUDGET. NOT APPLICABLE

The Consultant acknowledges that the construction budget for this Project allocates **TWENTY MILLION SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS** for the award of a construction contract base bid, which is to include all features essential to the operation of the Project for its intended use as described in the Scope of Services and Project budget in **Attachment**

“A”. The Consultant does hereby agree to design the Project such that the Consultant’s final agreed cost opinions for the construction of the Project, including all features essential to its intended use, is within the above budgeted amount for the base bid. If the Consultant’s cost opinions exceed the Project Budget at any time, the Consultant shall make recommendations to the Owner to adjust the Project’s size or quality and the Owner shall cooperate with the Consultant to adjust the scope of the Project. If all responsible bids exceed the City approved Consultant’s final cost opinions by more than ten percent (10%), the Consultant agrees, at the direction of the Owner, to redesign the Project without additional charge to the Owner in order to bring the Project within the budgetary limitations.

3.5 COSTS NOT ENUMERATED. Except as specifically set forth in this Agreement and its attachments, all costs related to the completion of the services requested herein shall be borne by the Consultant and not passed on to the Owner or otherwise paid by the Owner, unless a written amendment to this Agreement is executed by both parties allowing for additional costs.

ARTICLE IV. PERIOD OF SERVICE AND TERMINATION

4.1 PERIOD OF SERVICE. The services called for by each phase shall begin upon the issuance of a Notice to Proceed from the City Engineer. The Consultant shall complete the requested services in accordance with the timelines and schedules outlined in **Attachments “C” and “D”**.

4.2 SUSPENSION. Barring an early termination as provided herein, this Agreement shall remain in force: a) For a period which may reasonably be required for the design, award of construction contracts, and construction of the improvements included in all construction contracts, including extra work and required extensions thereto; or b) Unless construction has not begun within a period of **twelve (12) months** after the completion of the services called for in that phase of work last authorized. However, should the Consultant’s services be suspended for a period longer than six months, the City and Consultant may renegotiate remaining fees due to changes in salaries or increased costs that may occur during the suspension period. The Owner may determine that this Agreement will remain in full force past the twelve-month period noted above. Such a determination will be based upon the individual circumstances of this Project and this Agreement.

4.2 TERMINATION. This Agreement may be terminated as provided herein.

4.2.1 TERMINATION BY OWNER. It is mutually understood and agreed by the Consultant and the Owner that the Owner may terminate this Agreement, in whole or in part for the convenience of the Owner, upon **fourteen (14) consecutive calendar days’** written notice. It is also understood and agreed that upon such notice of termination, the Consultant shall cease the performance of services under this Agreement. Upon such termination, the Consultant shall provide one (1) final invoice for all services completed

and reimbursable expenses incurred prior to the Owner's notice of termination. The Owner shall compensate the Consultant in accordance with this Agreement; however, the Owner may withhold any payment to the Consultant that is held to be in dispute for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined. Nothing contained herein, or elsewhere in this Agreement shall require the Owner to pay for any services that are not in compliance with the terms of this Agreement and its attachments.

4.2.2 TERMINATION BY EITHER PARTY. It is further understood and agreed by the Consultant and the Owner that either party may terminate this Agreement in whole or in part. Such a termination may be made for failure of one party to substantially fulfill its contractual obligations, pursuant to this Agreement, and through no fault of the other party. No such termination shall be made, unless the other party being terminated is granted: a) written notice of intent to terminate enumerating the failures for which the termination is being sought; b) a minimum of seven (7) consecutive calendar days to cure such failures; and c) an opportunity for consultation with the terminating party prior to such termination. However, the Owner retains the right to immediately terminate this Agreement for default if the Consultant violates any local, state, or federal laws, rules or regulations that relate to the performance of this Agreement. In the event of termination by the Owner pursuant to this subsection, the Owner may withhold payments to the Consultant for the purpose of setoff until such time as the exact amount due the Consultant from the Owner is determined.

4.2.3 TERMINATION SHALL NOT BE CONSTRUED AS RELEASE. Termination by either party shall not be construed as a release of any claims that the terminating party may be lawfully entitled to assert against the terminated party. Further, the terminated party shall not be relieved of any liability for damages sustained by the terminating party by virtue of any breach of this Agreement.

ARTICLE V. INSURANCE AND INDEMNIFICATION

5.1 INSURANCE. The Consultant shall have seven (7) calendar days from date of award to obtain sufficient insurance as required herein. The Consultant shall not commence work under this Agreement until the Consultant has obtained the required insurance and such insurance has been approved by the Owner. The Consultant shall maintain the required insurance throughout the term of this Agreement. Failure to maintain said insurance shall be considered a material breach of this Agreement.

5.1.1 WORKERS' COMPENSATION INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement, Workers' Compensation Insurance as required by applicable Texas law for all of the Consultant's employees to be engaged in work under this Agreement. The Consultant shall provide the following endorsement:

“The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the Owner, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured.”

5.1.2 COMMERCIAL LIABILITY, PROPERTY DAMAGE LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. The Consultant shall procure and shall maintain during the life of this Agreement such Commercial General Liability, Property Damage Liability and Automobile Liability Insurance as shall protect the Consultant and the Consultant’s employees performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from operations under this Agreement, whether such operations be by the Consultant or by anyone directly or indirectly employed by the Consultant. The minimum limits of liability and coverages shall be as follows:

- a) **COMMERCIAL GENERAL LIABILITY**
\$1,000,000.00 Per Occurrence
\$2,000,000.00 General Aggregate
\$2,000,000.00 Products/Completed Operations Aggregate
\$1,000,000.00 Personal and Advertising Injury

- b) **AUTOMOBILE LIABILITY**
Combined Single Limit
\$1,000,000.00 per accident

5.1.3 PROFESSIONAL LIABILITY INSURANCE. The Consultant shall procure and shall maintain, at the Consultant’s sole expense, Professional Liability Insurance for the benefit of the Owner to cover the errors and omissions of the Consultant, its principals or officers, agents or employees in the performance of this Agreement with a limit of \$1,000,000.00 on a claims made basis.

5.1.4 OWNER AS ADDITIONAL INSURED. The Owner shall be named as an Additional Insured on all of the Consultant’s Insurance Policies, with the exception of Workers’ Compensation and Professional Liability Insurance required by this Agreement.

5.1.5 PROOF OF INSURANCE. The Consultant shall furnish the City Engineer with certificates showing the type of insurance coverages, limits on each insurance policy, class of operations covered under each insurance policy, effective dates and expiration dates of policies, insurance companies providing the insurance coverages, name of agent/broker and include confirmation of any endorsement(s) required in this Agreement.

5.1.6 GENERAL INSURANCE PROVISIONS. All certificates required herein shall be attached hereto and incorporated for all purposes as **Attachment “E”** within seven (7) calendar days after contract award. All certificates shall also be updated to include the

name of each Project on the corresponding insurance certificate. Further, each certificate shall contain the following statement:

“The insurance covered by this certificate will not be canceled, and there will be no change in coverage or deductibles, except after thirty (30) consecutive calendar days written notice prior written notice to the City of El Paso or ten (10) calendar days prior written notice to the City of El Paso for non-payment of insurance policy premiums.

5.2 INDEMNIFICATION. To the fullest extent permitted by law, the Consultant shall indemnify and hold harmless the Owner, and the Owner’s officers, directors, partners, agents consultants, and employees from and against any claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by any negligent act or omission of the Consultant or the Consultant’s officers, directors, partners, agents, consultants or employees. This indemnification provision is subject to and limited by the provisions agreed to by the Owner and the Consultant, as noted below. The Consultant shall not be responsible for any acts of any of the City’s Independent Project Managers.

To the extent allowed by state law, the Owner will be responsible for its own actions.

ARTICLE VI. FEDERAL PROVISIONS

6.1 COMPLIANCE WITH APPLICABLE LAWS - FEDERAL FUNDING REQUIREMENTS

The Consultant, at the Consultant’s sole expense, agrees that it will operate and perform its responsibilities and covenants under this Agreement in accordance with applicable laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Owner or the Consultant with respect to the use of federal funds and nondiscrimination in the administration of contracts which are funded, in whole or in part, with federal funds.

Specifically, and not in limitation of the foregoing, the Consultant agrees that to the extent required by any agreement between the Owner and any Federal agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over this Project, **including but not limited to:**

--The Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Owner, or supported by FTA through a Loan, Loan Guarantee, or Line of Credit with the Owner.

--The Department of Housing and Urban Development (HUD) through a Grant Agreement or Cooperative Agreement with the Owner.

--The Federal Aviation Administration through a Grant Agreement or Cooperative Agreement with the Owner, as further described in Attachment "F".

--The Federal Highway Administration through a Local Project Funding Agreement through the Texas Department of Transportation.

Copies of grant assurances will be made available to the Consultant. However, provided copies shall in no way be a limitation on the Consultant's obligation to comply with any Federal agency, the laws of the federal government of the United States of America and the rules and regulations of any regulatory body or officer having jurisdiction over a Project.

6.1.1 CONTRACT ASSURANCE. The Consultant or a subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

6.1.2 DBE GOOD FAITH EFFORTS. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award of this Agreement. The requirements of 49 CFR Part 26, regulations of the U.S. DOT, may also apply to a Project, in which case the award of this Agreement will be conditioned upon the Consultant satisfying the DBE requirements. A DBE contract goal will be identified pursuant to the federal funding requirements for an individual Task Order issued for a Project pursuant to this Agreement. The Consultant shall make good faith efforts, as defined in Appendix A, 40 CFR Part 26, to meet the contract goal for DBE participation in the performance of this Agreement.

The Consultant will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the Consultant's commitment to use a DBE subconsultant whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts. The Consultant shall submit the information with its proposal as a condition of responsiveness.

DBE participation in this Agreement may be in the form of a prime contract, subcontract, joint venture, or other arrangement that qualifies under 49 CFR Section 26.55 or 26.53(g), both of which will be submitted on a Letter of Intent to the Owner.

6.2 TERMINATION FOR CANCELLATION OF GRANT. Should this Agreement be terminated as a result of cancellation of federal funds covering a Project, the Owner shall promptly notify the Consultant of the cancellation by certified mail-return receipt requested, whereupon the Consultant shall immediately, on receipt of the letter, cease and desist from performing any other work or services hereunder. In such an event, the Consultant will be paid for professional services performed to such date, upon furnishing the Owner a progress report and an invoice to such date, and upon acceptance of the work by the Owner.

6.3 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 78 STAT. 252, 42 U.S.C. 2000D TO 2000D-4 AND TITLE 49, CODE OF FEDERAL REGULATIONS, DEPARTMENT OF TRANSPORTATION.

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

(1) **Compliance with Regulations:** Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** Consultant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books,

records, accounts other sources of information, and its facilities as may be determined by Owner to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information Consultant shall so certify to Owner, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of Consultant's noncompliance with the nondiscrimination provisions of this contract, the Owner shall impose such contract sanctions as it may determine to be appropriate, including but not limited to: a. Withholding of payments to the Consultant under the contract until the Consultant complies, and / or b. Cancellation, termination or suspension of the contract in whole or in part.

(6) Incorporation of Provisions: Consultant shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directive issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as Owner may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request Owner to enter into such litigation to protect the interests of Owner and in addition, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE VII. GENERAL PROVISIONS

7.1 CONTRACT TIME. The Consultant understands and agrees to provide all professional services and deliverables requested herein, as expeditiously as is consistent with professional skill and care, and to use its best efforts to complete this Agreement within the time schedules indicated within **Attachment "D"**. It is acknowledged that the Consultant does not have control over all aspects of the design and construction process and cannot warrant that it will complete all services and deliverables by a certain date. The Consultant shall timely notify the City Engineer of any delay beyond its control and the City Engineer shall extend the time schedule in the event of delays which the City Engineer reasonably determines are beyond the control of the Consultant. The Consultant shall perform these services with reasonable diligence and expediency consistent with sound professional practices and consistent with the schedule provided in **Attachment "D"**.

7.2 CONSULTANT'S QUALITY OF WORK. The Owner's review of any documents prepared by the Consultant is only general in nature and its option to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in its professional service. The Consultant's services shall be performed as expeditiously as is prudent considering the ordinary professional skill and care a competent engineer or architect and consistent with the orderly progress of the Project and in accordance with the time periods established in **Attachment**

“D” and which shall be adjusted, if necessary, as the project proceeds. This schedule shall include allowances for periods of time required for the Owner’s review, for the performance of the Owner’s consultants, and for approval of submissions by authorities having jurisdiction over the project. The identified time limits shall not, except for reasonable cause, be exceeded by the Consultant or Owner. Services provided by the Consultant under this Agreement shall be performed with professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license.

7.3 COPYRIGHT AND REPRODUCTION RIGHTS. Upon payment of amounts due, the Drawings, Specifications, concepts and design, and other documents prepared by the Consultant for the Project including, without limitation, those in electronic form (sometimes referred to as the “Instruments of Service”) are the property of the Owner, who shall be vested with all common law and statutory rights. The Owner shall have the right to the use of the Drawings, Specifications and other documents for the maintenance, repair, remodeling and renovation of the Project; provided however the Consultant shall have no liability for any use of one or more of the Instruments of Service by the Owner for maintenance, repair, remodeling and renovation of the Project. The Owner shall have the consent of the Consultant, provided, however, the Consultant shall have no liability or responsibility for such use of the Drawings, Specifications, concepts and design, and other documents. The rights granted to the Owner herein for the use of the Drawings, Specifications and other documents for additional projects shall not grant the Owner any right to rely upon the Consultant’s seal on the Drawings and Specifications or to hold the Consultant responsible for any subsequent use of the Drawings, Specifications and documents. The Consultant shall provide the Owner with copies of the Instruments of Service in both electronic form and in hard copy.

7.4 AUDITING RECORDS FOR THE SPECIFIC PROJECT. The Consultant’s records subject to audit shall include but not be limited to records which, in the Owner’s discretion, have a bearing on matters of interest to the Owner in connection with the Consultant’s work on the Project for the Owner and shall be open to inspection and subject to audit and/or reproduction by Owner’s agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (a) the Consultant’s compliance with contract requirements, and (b) compliance with provisions for computing Direct Personnel Expense with reimbursables, if applicable.

Such records subject to audit shall also include those records necessary to evaluate and verify direct and indirect costs, (including overhead allocations) as they may apply to costs associated with this Agreement. In those situations where the Consultant’s records have been generated from computerized data, the Consultant agrees to provide the Owner’s representatives with extracts of data files in computer readable format on data disks or suitable alternative computer data exchange format.

The Owner or its designee shall be entitled, at its expense, to audit all of the Consultant’s records related to the Project, and shall be allowed to interview any of the Consultant’s employees,

pursuant to the provisions of this section throughout the term of this contract and for a period of **three (3) years** after final payment or longer if required by law. Such audits may require inspection and photo copying of selected documents from time to time at reasonable times and places.

7.5 SUCCESSORS AND ASSIGNS. This Agreement shall be binding on the Owner and the Consultant, their successors and assigns. Neither party may assign, sublet, or transfer its interest in this Agreement without the written consent of the other.

7.6 VENUE. For the purpose of determining place of Agreement and the law governing the same, this Agreement is entered into in the City and County of El Paso, the State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the County of El Paso, Texas.

7.7 GOVERNING LAW. The Consultant shall comply with applicable Federal, State and local laws and ordinances applicable to the work contemplated herein.

7.8 CAPTIONS. The captions of this Agreement are for information purposes only, and shall in no way affect the substantive terms or conditions of this Agreement.

7.9 SEVERABILITY. Should any section, paragraph or other provision of this Agreement be found invalid, such invalidity shall not affect the remaining provisions of this Agreement.

7.10 NOTICES. Any notice, demand, request, consent or approval that either party may or is required to provide to the other shall be in writing and either personally delivered or sent via certified mail, return receipt, to the following addresses:

To the Owner: The City of El Paso
 Attn: City Manager
 P.O. Box 1890
 El Paso, Texas 79950-1890

With a Copy to: The City of El Paso
 Attn: City Engineer
 P.O. Box 1890
 El Paso, Texas 79950-1890

To the Consultant: ECM International, Inc.
 Attn: Mel Herrera, P.E.
 404 Executive Center Blvd.
 El Paso, Texas 79902

Changes may be made to the names and addresses noted herein through timely, written notice to the other party.

7.11 CONFLICTING PROVISIONS. Any provision contained in any Attachments to this Agreement, which may be in conflict or inconsistent with any of the provisions in this Agreement shall be void to the extent of such conflict or inconsistency.

7.12 ENTIRE AGREEMENT. This Agreement, including attachments, constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. This Agreement shall not be amended or modified, except by written amendment, executed by both parties.”

WITNESS THE FOLLOWING SIGNATURES AND/OR SEALS:

CITY OF EL PASO:

Tomás González,
City Manager

CONSULTANT:
ECM International, Inc.

Mel Herrera, P.E.
President

APPROVED AS TO FORM:



Sol M. Cortez
Assistant City Attorney

APPROVED AS TO CONTENT:



Andrew H. Goh, City Engineer
Capital Improvement Department

(Acknowledgements Begin on the Following Page)

ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on this _____ day of _____, 2016,
by **Tomás González**, as **City Manager of the City of El Paso, Texas**.

Notary Public, State of Texas

My commission expires:

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on this _____ day of _____, 2016,
by **Mel Herrera, P.E.**, as **ECM International, Inc.**

Notary Public, State of Texas

My commission expires:

ATTACHMENT "A"
SCOPE OF SERVICES

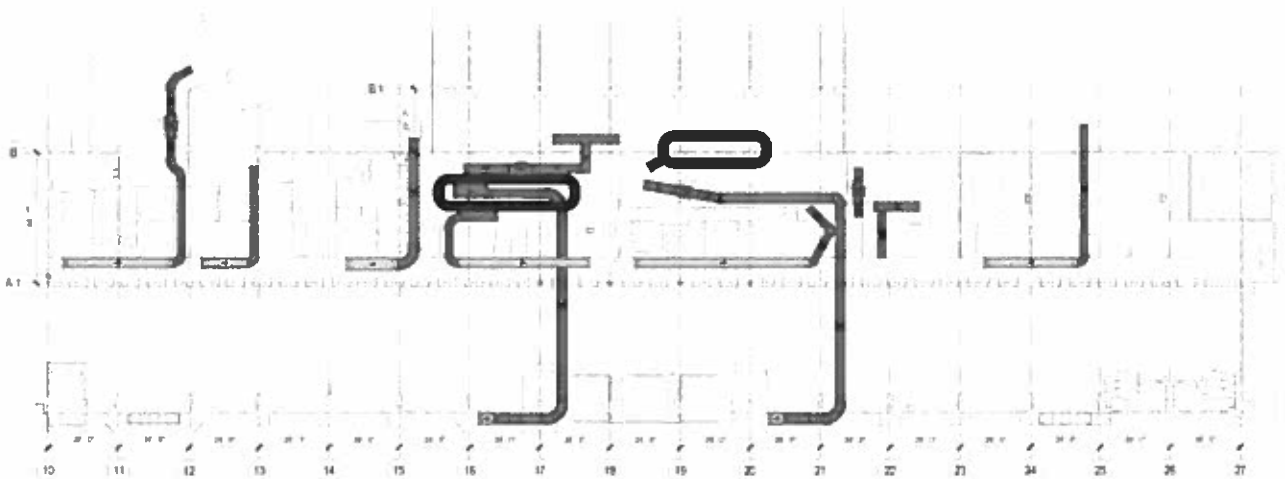
SCOPE OF SERVICES

General Description:

The scope includes construction management services for the Check Baggage Inspection System.

The project consists of the removal and replacement of the existing checked baggage screening equipment. The existing system is a decentralized Type 4 standalone EDS CBIS configuration. The ELP BHS consists of six (6) ticketing counter input belts. These subsystems are approximately 25 to 30 years old; the subsystems transport bags to close proximity of where the Stand-alone CT-80DR's Reveal machines are located adjacent to the airline baggage make-up device; bags are manually removed from the transport conveyors by TSA and manually feed into the CT-80DR for screening. After screening alarmed bags are removed and further inspected by TSA personnel. Clear bags are manually removed from the CT-80DR and placed onto various types of sortation devices for manual baggage make-up by the individual carriers. The existing CBIS consists of five (5) CT-80DR machines.

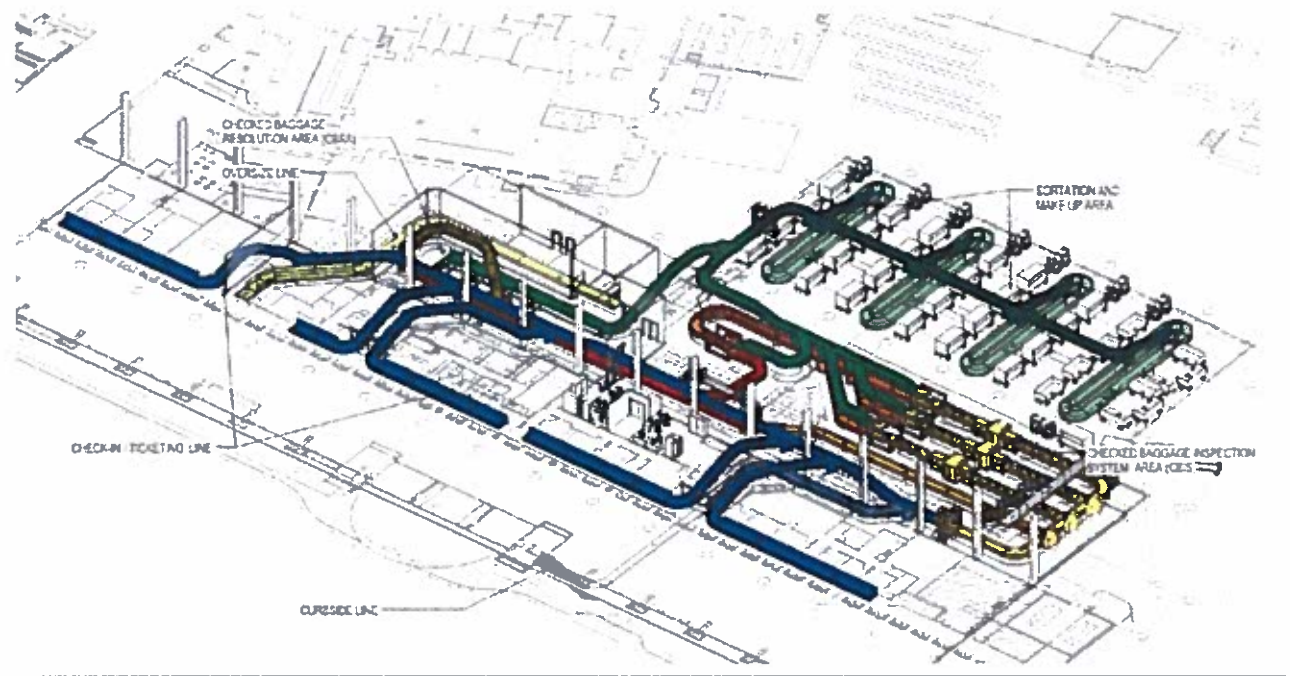
Existing Terminal CBIS Overview



The proposed project is planned to install three (3) L3 6700 machines with an associated CBRA that will receive non-cleared bags from the machines. The design also includes an out-of-gauge line that directly conveys unscreened bags not capable of being screened through an ISD because of size requirements. The CBIS also has a reinsertion line connected to the alarm line used to transport BHS Unknown, EDS Unknown, or Communication Error bags back onto the conveyor collector belt upstream of the pre-CBIS ATR feeding the EDS machines. Level 1 clear lines from the EDS machines merge together and convey bags onto the sort mainline out to the make-up devices. Both the OSR clear line and the clear line out of the CBRA merge onto the EDS clear line prior to the sort area ATR. An oversize line for the CBIS is installed to allow transport of oversize bags from the ticket counter area to the CBRA; after bags have been cleared they are placed on a slide that transfers them into the new make-up area for pickup by fleet services personnel.

The new outbound baggage handling system includes five (5) new ticket counter lines with numerous ticketing positions and one (1) curbside line for baggage input into the system. The clear mainline from the EDS machines conveys bags to four (4) flat plate make-up devices.

Proposed Mini-Inline EDS



Project Footprint: See exhibit above

Construction Project Budget: \$20.7 million

Funding Source: TSA- EPIA

Estimated Construction Start Date: January 2017

Estimated Completion Date: January 2019

GENERAL SCOPE:

1.0 KNOWLEDGE AND SKILLS

The consultant team shall have knowledge in the architectural, engineering and construction field and be familiar with engineering and construction practices. The consultant shall be familiar and have experience with the following:

- Pertinent Federal Aviation Administration (FAA) advisory
- City of El Paso Subdivision Ordinance

- City of El Paso Grading Ordinance
- Engineering and Construction Management Design Manual for Construction
- Texas Commission and Environmental Quality (TCEQ) requirements
- Leadership in Energy and Environmental Design (LEED) or Green Globes Compliance and Requirements
- Other local, state, and federal codes, ordinances, and requirements

The consultant team shall have the following skills and abilities:

- Prepare and formulate cost estimates
- Prepare detailed requests for proposals
- Prepare detailed project schedules using Gantt Charts
- Review architectural and engineering drawings and specifications
- Effective conflict resolution skills
- Effective communication skills, both verbal and written
- Willingness to meet with stakeholders
- Multi-task several activities
- Prepare meeting agendas and meeting minutes
- Effective negotiation skills
- Effective organizational skills
- Track project and activity status
- Follow--up on pending items
- Economize project resources
- Effective public relation skills
- Prepare daily and monthly reports
- Review pay applications
- Keep a photo log
- Maintain an accurate and current submittal log

2.0 Electronic Document Management:

The construction management firm will be encouraged to minimize the use of large amounts of paper in an effort to promote a “green approach” to document management. Several available web-based programs or software to store, manage, view, review, and comment will be available. While not exhaustive, the following are some of the documents to be placed on web-based software:

- Concept documents
- Design documents including specifications and estimates
- Bid documents
- Construction drawings

- Meeting minutes
- Project schedules
- Material Submittals
- Inspection reports
- Observation reports
- Requests for Information
- Pay applications
- Closeout documents
- Warranty documents
- Photos

The web-based software shall be for review and approval and not only storage.

The web-based software shall be user friendly and easy to access. Identified stakeholders including City staff shall be provided user-friendly access to software.

ATTACHMENT "B"
CONSULTANT'S FEE PROPOSAL AND HOURLY RATES



November 15, 2016

City of El Paso – El Paso International Airport
6701 Convair Road
El Paso, TX 79901

Attn: Shane Brooks

RE: Fee Proposal for the Construction Management of the EPIA's Checked Baggage Inspection System Project – Rev1

As requested, please find ECM's fee proposal for the construction management services for the EPIA's Checked Baggage Inspection System Project. The original fee proposal has been modified based on negotiations with EPIA staff.

The scope of services for ECM is as described in the Request for Qualifications issued by the City of El Paso on October 20, 2016. The construction cost of the project is approximately \$20.7 million.

According to the RFQ requirements and conversations with the airport staff, our fee proposal is based on the following assumptions:

1. ECM's involvement in the project now encompasses twenty-eight months starting in December 2016, and ending in March 2019.
2. Due to the complexity of the project, our staff will consist of a senior construction manager with significant experience in baggage systems and a construction manager with knowledge of civil and architectural issues.
3. Temporary living expenses are included in the proposal until for a maximum of six months until the proposed Sr. construction manager relocates to El Paso.

ECM's revised fee proposal is a time and materials amount of \$1,517,869.94.

As attachments to this letter, the following documents are provided as a backup:

1. Hourly Rate Schedule
2. Detailed Fee Proposal

3. Form 1295
4. Breakdown of ECM's general administrative overhead multiplier and profit mark-up
5. Certificate of insurance

Please let me know if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mel Herrera", with a stylized flourish at the end.

Mel Herrera, P.E., PMP, LEED AP
President
ECM International

C.c. File

Construction Management for the EPIA's Checked Baggage Screening Project
City of El Paso

By: M. Herrera, PE, PMP, LEED AP
Date: November 15, 2016



Proposed Billing Rates 2016-2019

Classification	Personnel	2016-2019 Billing Rates ⁽¹⁾
Principal In-Charge	Mel Herrera, P.E. LEED AP	\$ 171.00
Senior Project Manager ⁽²⁾	Patrick Marino	\$ 192.15
Construction Manager	Pablo Martinez, R.A.	\$ 119.18
Administrative Assistant	Iris Gomez	\$ 57.00

Notes

¹ Billing rates are fully burdened and include a Profit Markup of 15%.

² Sr. Project Manager position is an employee of Faithful Gould, a sub consultant to ECM. According to City standards, ECM is marking up 5% on all sub consultants rates.

Construction Management for the EPIA's Checked Baggage Inspection System Project - Rev. 1



Date: 11-15-16
 By: M. Herrera, P.E.

Fee Estimation - Dec '16						
Position	Team Member	Hours per month	Hourly Rate	Monthly Fee	Duration (months)	Subtotal
Checked Baggage Screening Project⁽³⁾						
Principal-In-Charge	Mel Herrera, PE	8	\$171.00	\$1,368.00	1	\$1,368.00
Sr. Project Manager ⁽²⁾	Patrick Marino	173	\$192.15	\$33,241.95	1	\$33,241.95
Construction Manager	Pablo Martinez, RA	0	\$119.18	\$0.00	1	\$0.00
Administrative Assistant	Iris Gomez	0	\$57.00	\$0.00	1	\$0.00
Subtotal =						\$34,609.95

Fee Estimation - Jan '17 to Dec '17						
Position	Team Member	Hours per month	Hourly Rate	Monthly Fee	Duration (months)	Subtotal
Checked Baggage Screening Project⁽³⁾						
Principal-In-Charge	Mel Herrera, PE	8	\$171.00	\$1,368.00	12	\$16,416.00
Sr. Project Manager ⁽²⁾	Patrick Marino	173	\$192.15	\$33,241.95	12	\$398,903.40
Construction Manager	TBD	173	\$119.18	\$20,618.14	12	\$247,417.68
Administrative Assistant	Iris Gomez	0	\$57.00	\$0.00	12	\$0.00
Subtotal =						\$662,737.08



Fee Estimation - Jan '18 to Dec '18						
Position	Team Member	Hours per month	Hourly Rate	Monthly Fee	Duration (months)	Subtotal
Checked Baggage Screening Project ⁽³⁾						
Principal-In-Charge	Mel Herrera, PE	8	\$171.00	\$1,368.00	12	\$16,416.00
Sr. Project Manager ⁽²⁾	Patrick Marino	173	\$192.15	\$33,241.95	12	\$398,903.40
Construction Manager	Pablo Martinez, RA	173	\$119.18	\$20,618.14	12	\$247,417.68
Administrative Assistant	Iris Gomez	0	\$57.00	\$0.00	12	\$0.00
Subtotal =						\$662,737.08

Fee Estimation - Jan '19 to Mar '19						
Position	Team Member	Hours per month	Hourly Rate	Monthly Fee	Duration (months)	Subtotal
Checked Baggage Screening Project ⁽³⁾						
Principal-In-Charge	Mel Herrera, PE	8	\$171.00	\$1,368.00	3	\$4,104.00
Sr. Project Manager ⁽²⁾	Patrick Marino	173	\$192.15	\$33,241.95	3	\$99,725.85
Construction Manager	Pablo Martinez, RA	87	\$119.18	\$10,368.66	3	\$31,105.98
Administrative Assistant	Iris Gomez	0	\$57.00	\$0.00	3	\$0.00
Subtotal =						\$134,935.83

Labor Subtotal	\$1,495,019.94
Living Expenses for PM ⁽⁵⁾	\$12,850.00
Project Management Software ⁽⁶⁾	\$0.00
Estimated reimbursable ⁽⁷⁾	\$10,000.00
TOTAL ⁽⁸⁾	\$1,517,869.94



Notes:

1. Estimate is based on the effort outlined in the City RFQ , and the notes that follow herein.
This estimate is for a time and materials not to exceed contract.
Invoices will include copies of timesheets and narrative of activities for ECM and sub consultants.
2. Sr. Project Manager position is an employee of Faithful Gould, a sub consultant to ECM. According to City standards, ECM is marking up 5% on all sub consultants rates.
3. Preconstruction services will be provided during December '16. The construction of the project is expected to start in January 2017 and have a 24-month duration, plus a period of 3 months of close-out.
4. Not used.
5. Living expenses for the Sr. Project Manager for the first six months include rent of apartment, flights to San Francisco, car rental, per attached Table. Expenses are a not to exceed and will be billed at cost.
6. Program Management Software to be provided by the City of El Paso/EPIA.
7. Estimated reimbursable include , copies, internet service, cleaning service for the office, mileage for delivering packages in town, and mileage for trips from field personnel to meetings at the City or other offices. Furniture and equipment bought during ConRAC project will be used and returned to City/Airport after project is completed.
8. If projects are extended, ECM may request an increase to the purchase order.
9. Proposal based on hours shown. Except for Principal-In-Charge, ECM personnel will be officed at the Airport. If additional hours are requested, ECM may request an increase to the purchase order.



Sr. PM Expenses Table

Description	Monthly Cost	Total Cost (6 months)
Flights (SFO or OAK to ELP)	\$375 w/ 1 month pre book	\$2,250
Apartment		
- Studio/1 Bdrm.	\$800	
- Furniture	\$350	\$6,900
Car Rental (6 month term)	\$616	\$3,700
Relocation CA to TX	-	\$0
Contingency (approx. 12.5%)		\$0
Total Expenses (6 months)		\$12,850

**ATTACHMENT “C”
CONSULTANT’S BASIC AND ADDITIONAL SERVICES**

For the Project known as “**EPIA CHECKED BAGGAGE INSPECTION SYSTEM,**” hereinafter referred to as the Project, the Consultant will provide the Basic and Additional Services as noted herein.

BASIC SERVICES OF THE CONSULTANT

GENERAL

1. The Consultant agrees to perform professional services in connection with the Project as hereinafter stated.
2. The Consultant shall comply with the City of El Paso Capital Improvement Department Construction Document Guidelines, which are in effect at the time of this Agreement and are available in the City Capital Improvement Department, in the performance of the services requested under this Agreement.
3. The Consultant shall serve as the Owner’s professional representative in those phases of the Project to which this Agreement applies, and shall give consultation and advice to the Owner during the performance of services.
4. The Owner is relying upon the skill, reasonable care and knowledge of the Consultant to furnish the Owner with oversight and management of the Project within the allocated budget. The Owner’s review of any documents prepared by the Consultant is only general in nature and its obligation to approve and accept the work in no way relieves the Consultant of responsibility for any specific deficiencies in the project.

CONSTRUCTION PHASE

At the Owner’s request, the Consultant shall provide the following services associated with the construction phase of the Project:

1. Advise and consult with the Owner and act as the Owner’s representative as provided in the general conditions of the construction contract. Such general conditions shall be the Owner’s standard general conditions for construction projects, with such changes and modifications as may be made in such general conditions from time to time.
2. Issue the Owner’s instructions to the construction contractor when required to do so,
3. The construction manager/project inspector shall inspect work performed by Contractors, Subcontractors, and Vendors as required by construction documents and City of El Paso Capital Improvement Department requirements and guidelines.

4. Monitor and manage the project construction contract, cost and schedule.
5. Visit the construction site at least once daily or more frequently, if necessary, to observe the progress and quality of the executed work and to determine if such work meets the essential performance and design features and the technical and functional requirements of the construction contract documents. On the basis of these on-site observations, the Consultant shall endeavor to guard the Owner against apparent defects and deficiencies in the permanent work constructed by the construction contractor. The Consultant's efforts shall be directed toward providing assurance for the Owner that the completed construction contract shall conform to the engineering requirements of the construction contract documents. However, the Consultant shall not be responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents. Nothing in this Agreement shall be construed as requiring the Consultant to assume responsibility for or to guarantee the complete adherence of the construction contractor to the Drawings and Specifications and the construction contract documents.
6. The Consultant shall provide the Owner with detailed typed or printed field notes for each construction site visit to include, but not limited to, notations regarding the number of workers present on the job site, the weather conditions and how the weather conditions may/may not affect the performance of the work for that day, the material or equipment delivered, any filed problems, a summary of construction activities, result of follow up inspection of previously reported deficiencies, any verbal discussions that took place, any concerns or problems to be addressed and the rate of progress on the work.
7. Schedule and lead the weekly progress meetings, properly documenting all issues and ensure all stakeholders are present to resolve them in order to keep the project moving forward. Assist in the coordination of the Project with third parties.
8. Review, process and track all shop drawings diagrams, illustrations, brochures, catalog data, schedules, and samples, the results of tests and inspections and other data which the construction contractor is required to submit, for conformance with the design concept of each construction contract and compliance with the information given in the construction contract documents. Such review must be complete within five (5) City working days following receipt of submittal documents, or as required by the Owner.
9. Prepare change orders to include independent detailed opinion of probable construction cost, for the Owner's approval, after securing approval of all agencies having approval authority over the construction contract.
10. Based on the Consultant's on-site observations as an experienced professional and on review of the construction contractor's applications for payment and supporting data (supporting data shall include detailed plan sheets showing the limits of payment for verified quantities and/or detailed quantity sheets), determine the amount owing to the construction contractor and recommend in writing payment to the construction contractor in such amounts; such recommendation of payment to constitute a representation to the

Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of the Consultant's knowledge, information and belief, the quality of the work is in accordance with the construction contract documents, meets the required standards for any tests called for in the construction contract documents, and conforms to any qualifications stated in the construction contract documents. By recommending an application for payment, the Consultant shall not be deemed to have represented that the Consultant has made any examination to determine how or for what purposes the construction contractor has used the monies paid on account of the construction contract price.

Schedule the initial start-up and test operation of equipment or devices.

11. Conduct with the Owner and the construction contractor brief preliminary inspections as needed, at times requested by the construction contractor to determine if the Project is ready for substantial completion inspection.
12. Schedule and conduct with the Owner, including representative of the City Engineer and the user department, the State ADA inspector or State certified ADA consultant, and the construction contractor, a substantial completion inspection of the Project and prepare and publish a "punch list" of minor deficiencies to be corrected prior to final payment to the construction contractor. The "punch list" shall be furnished to the construction contractor and the Owner within two (2) City working days after the substantial completion inspection.
13. In conjunction with the design consultant, issue a "Certificate of Substantial Completion" using EJCDC document 1910-8-D (1983 version) when the final inspection reveals that the Project is substantially complete and fully usable for its intended purpose with only minor deficiencies to be corrected. The certificate shall be issued within two (2) City working days after the final inspection.
14. Coordinate the initial start-up and test operation of equipment or devices and the preparation of manuals of operation and maintenance.
15. Schedule and conduct with the Owner a final inspection to verify proper correction of all punch list deficiencies. Notify the Owner in writing when all deficiencies have been corrected, and when warranty, maintenance, and operating instructions and other documents have been submitted by the construction contractor. Act on and forward the construction contractor's final invoice for payment.
16. The Consultant shall review any close out documentation as required by the contract, including but not limited to maintenance and operation instructions, schedules, guarantees, bonds, certificates of inspection, and other documents that the construction contractor is required to submit in accordance with the construction contract documents.
17. Make written recommendations to the Owner on all claims relating to the execution and progress of the construction work.

18. Notify the Owner of all permanent work which does not conform to the result required in each construction contract; prepare a written report describing any apparent nonconforming permanent work, and make recommendations to the Owner for its correction and, at the Owner's request, have recommendations implemented by the construction contractor.
19. Serve as an expert witness for the Owner in any litigation or other proceeding involving the Project.
20. The Consultant may perform Additional Services in connection with the Project, which are not otherwise provided for in this Agreement. The Owner shall pay for such Additional Services at the rates established by the Consultant in Attachment "B" except where those services are required as a result of negligence or other fault on the part of the Consultant.

ADDITIONAL SERVICES OF THE CONSULTANT

GENERAL

If authorized in writing by the Owner, through written amendment, the Consultant shall perform or obtain Additional Services noted below, which are not covered within the Agreement. No claim for Additional Services or cost shall be allowed unless the same was done pursuant to a written authorization dated prior to the Additional Services or cost and which was authorized pursuant to the policies and procedures of the Owner (i.e., passage by City Council). The Owner shall pay for such Additional Services as indicated in the Agreement.

1. Furnish core borings, probings, and hydrographic surveys; laboratory testing; inspection of samples or materials; and other special consultations.
2. Provide Additional Services due to significant changes in the general scope of the Project or its design including, but not limited to, changes in size, complexity, or character of construction if the changes are inconsistent with approvals or instructions previously given by the Owner including revisions made necessary by adjustments in the Owner's scope or budget, except where the Consultant's preliminary study and report, preliminary design, pre-final design, or final design cost opinions exceed the budgeted amount, or in the case where all responsible bids exceed the Consultant's final design cost opinions by **ten percent** or more.
3. Furnish additional copies of studies, reports, and additional prints of Drawings and Specifications in excess of those required herein.
4. Provide investigations involving detailed consideration of operation, maintenance, and overhead expenses as well as the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material or labor.
5. Provide Additional Services in connection with the Project not otherwise provided for in this Agreement, except where those services are required as a result of negligence or other fault on the part of the Consultant.

RESIDENT PROJECT SERVICES

1. If directed in writing by the Owner, one or more full-time Resident Project Representatives shall be furnished and directed by the Consultant in order to provide more extensive representation at each construction site during the Construction Phase. Such resident project representation shall be paid for by the Owner.
2. The duties and responsibilities and the limitations on the authority of the Resident Project Representative shall be as set forth in writing by the City Engineer before such services begin.

3. Through the continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative, the Consultant shall endeavor to provide further protection for the Owner against defects and deficiencies in the work of the construction contractors, but the furnishings of such resident project representation shall not make the Consultant responsible for the construction contractor's failure to perform the construction work in accordance with the construction contract documents.

**ATTACHMENT "E"
INSURANCE CERTIFICATE**

**ATTACHMENT "D"
PAYMENT SCHEDULE**

For the Project known as "EPIA CHECKED BAGGAGE INSPECTION SYSTEM", hereinafter referred to as the "Project", the Owner will compensate the Consultant an amount not to exceed **ONE MILLION FIVE HUNDRED SEVENTEEN THOUSAND EIGHT HUNDRED SIXTY NINE AND 94/100 DOLLARS (\$1,517,869.94)** for building construction management services.

PAYMENT SCHEDULE

Building commissioning services shall include the phases listed below at the Lump Sum fee shown for each phase.

Time and materials shall be billed to the Owner by the Consultant pursuant to the schedule provided in the Consultant's proposal found in Attachment "B". The time shown in Attachment "B" is an estimate. Should the services rendered during the bidding and construction phases exceed the estimated amount, written authorization will be required prior to rendering services.

Payment for each Phase shall be made on a monthly basis. The Owner shall make payments upon presentation of the Consultant's detailed Invoice and accompanying Summary and Progress Report and the Owner's written approval.

The invoice must clearly identify each employee name, title, hours worked, date of performance, task or project description, rate per hours and/or cost, and office/company location.

Reimbursable Costs: Efforts must be made to secure a *reasonable* and/or lowest rate available in the marketplace.

Receipts: Legible itemized receipts are required for the following: 1. Meals 2. Hotel (lodging) costs. 3. Airfare travel costs. 4. Parking costs. 5. Automobile or Equipment Rental costs. 6. Taxi, Limousine, Bus, Subway, or other travel costs. 7. Reproduction. 8. Shipping and Handling. 9. Local Postage/Deliveries (courier services). 10. Communication Costs. *Tips and alcohol are not reimbursable.*

No single invoice may include items for both August and September of any given year. The Owner's fiscal year begins on September 1st of each year and ends on August 31st of each year. The Consultant's invoices must be separated into items that end August 31st and those that begin on Septembers 1st of any given year, to coincide with the Owner's fiscal year.

Communications Costs: Long Distance telephone calls need to be identified and strictly related to work performed under this Agreement in order to be reimbursable by the Owner. A log is preferred showing the date, person's name called, and explanation. Cell phone monthly charges are reimbursable if usage is strictly related to work performed under this Agreement. Legible itemized cell phone records are required.

**ATTACHMENT “E”
INSURANCE CERTIFICATE**

Personal Automobile Mileage: Expense report must clearly identify the departure/arrival time, To/From destinations and purpose of trip.

Entertainment Costs: Entertainment costs are not reimbursable, including: 1. Movie costs for “Pay for View” or Cable service. 2. Alcohol costs. 3. Monetary Tips (tipping) for any and all services related to all forms of travel (and/or entertainment).

ATTACHMENT "E"
INSURANCE CERTIFICATE



ECMINTE-01

VBARBA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/10/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 4682 Hub International Insurance Services 201 E. Main, Suite 800 El Paso, TX 79901	CONTACT NAME: Vanessa Barba PHONE (A/C, No., Ext.): (915) 206-6035 FAX (A/C, No.): E-MAIL ADDRESS: vanessa.barba@hubinternational.com														
INSURED ECM International, Inc. 404 Executive Center Blvd El Paso, TX 79902	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Allied Property and Casualty Insurance Company</td> <td>42579</td> </tr> <tr> <td>INSURER B : Texas Mutual Insurance Company</td> <td>22945</td> </tr> <tr> <td>INSURER C : Underwriters at Lloyd's London</td> <td>15792</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Allied Property and Casualty Insurance Company	42579	INSURER B : Texas Mutual Insurance Company	22945	INSURER C : Underwriters at Lloyd's London	15792	INSURER D :		INSURER E :		INSURER F :	
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INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD: WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		ACP7273779601	01/13/2016	01/13/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		ACP7273779601	01/13/2016	01/13/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0		ACP7273779601	01/13/2016	01/13/2017	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	TSF0001264619	01/13/2016	01/13/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability		B0621PECM1000215	01/13/2016	01/13/2017	Aggregate 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: El Paso International Airport (EPIA) Checked Baggage System

The General Liability and Auto policies include a blanket automatic additional insured endorsement for policy terms that provide additional insured status to the certificate holder including the products completed operations hazard (GL) only when there is a written contract between the named insured and the certificate holder that requires such status subject to policy terms and conditions. The General Liability, Auto and Workers Compensation policies include a blanket automatic waiver of subrogation endorsement that provides a waiver of subrogation only when there is a written contract between the named insured and the certificate holder that requires it subject to policy terms and conditions. The General Liability, Auto and Workers Compensation policies include a blanket notice of cancellation endorsement, providing for 30 days' advance notice if the policy is canceled by the company other than for non-payment of SEE ATTACHED ACORD 101

CERTIFICATE HOLDER**CANCELLATION**

City of El Paso / City 2 - Capital Improvement Dept.
 218 N. Campbell, 2nd Floor
 El Paso, TX 79901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDITIONAL REMARKS SCHEDULE

AGENCY Hub International Insurance Services		License # 4682	NAMED INSURED ECM International, Inc. 404 Executive Center Blvd El Paso, TX 79902
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**

**Description of Operations/Locations/Vehicles:
premium, 10 days' notice after the policy is canceled for non-payment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The General Liability and Auto policy contain a special endorsement with Primary and Non-contributory wording subject to policy terms and conditions. Umbrella is a follow form.**

**ATTACHMENT “F”
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS**

In this Attachment “F”, the term “Contractor” shall refer to the “Consultant”, and the term “Airport Sponsor” shall refer to the “Owner”.

If there are any conflicts between the terms and conditions of Attachment “F” and Article VI of the Agreement, the terms and conditions of Attachment “F” will prevail.

A. GENERAL REQUIREMENT FOR CONTRACT

1. The contractor (including all subcontractors) are required to insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts;
2. The contractor (or subcontractor) is required to incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
3. The contractor is responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider; and
4. The contractor (or subcontractor) shall not modify the provisions.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the contract.

B. FAILURE TO COMPLY

Failure to comply with the terms of these contract provisions may be sufficient grounds to:

1. Withhold progress payments or final payment,
2. Terminate the contract,
3. Seek suspension/debarment, or
4. Any other action determined to be appropriate by the Airport Sponsor or the FAA.

C. CONTRACT PROVISIONS

1. ACCESS TO RECORDS AND REPORTS (all AIP-funded projects)

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor, the Federal Aviation Administration,

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

ATTACHMENT "F"
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and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the

Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after the final payment is made and all pending matters are closed.

2. **BREACH OF CONTRACT TERMS** (all contracts that exceed the simplified acquisition threshold as fixed at 41 USC 403(11). This threshold is presently set at \$100,000.)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. **BUY AMERICAN PREFERENCES** (all AIP-funded projects, if this professional services agreement includes any manufactured product as a deliverable.)

BUY AMERICAN CERTIFICATION

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must submit the appropriate Buy America certification (below) with all bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

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FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

Certificate of Buy American Compliance for Total Facility

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
- a. Only installing steel and manufactured products produced in the United States; or
 - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic products

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

1. To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a. Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c. Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product
- b. Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

Fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

* * * * *

Certificate of Buy American Compliance for Manufactured Products

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
 - a. Only installing steel and manufactured products produced in the United States, or;
 - b. Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

- c. Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

- a. Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products

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FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

- excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
- b. Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
 - c. Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a. Detailed cost information for total project using US domestic product

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

- b. Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

4. GENERAL CIVIL RIGHTS PROVISIONS (all contracts)

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

**ATTACHMENT “F”
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS**

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

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- a. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

5. CIVIL RIGHTS-TITLE IV COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS (all AIP funded projects)

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

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FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontractor or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

6. **CLEAN AIR AND WATER POLLUTION CONTROL (all contracts that exceed \$100,000)**

Contractors and subcontractors agree:

1. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring,

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FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

3. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
4. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

7. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS (all contracts that exceed \$100,000)

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3. Withholding for Unpaid Wages and Liquidated Damages.

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subcontractors.

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section.

8. **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION (BIDDER OR OFFEROR)** (all contracts that exceed \$25,000)

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

9. **DISADVANTAGED BUSINESS ENTERPRISES** (all AIP-funded projects)

Contract Assurance (49 CFR § 26.13) - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (49 CFR §26.29)- The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the City. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

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FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

10. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Federal Fair Labor Standards Act (29 USC 201)	U.S. Department of Labor – Wage and Hour Division

11. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES (all AIP-funded projects)

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

12. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (all contracts)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a

Referenced requirement directly with the Federal Agency with enforcement responsibilities.

Requirement	Federal Agency with Enforcement Responsibilities
Occupational Safety and Health Act of 1970 (20 CFR Part 1910)	U.S. Department of Labor – Occupational Safety and Health Administration

13. RIGHTS TO INVENTIONS (all AIP-funded projects)

All rights to inventions and materials generated under this contract are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this contract is executed.

14. TERMINATION OF CONTRACT (contracts that exceed \$10,000)

1. The Sponsor may, by written notice, terminate this contract in whole or in part at any time, either for the Sponsor's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the Sponsor.
2. If the termination is for the convenience of the Sponsor, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
3. If the termination is due to failure to fulfill the contractor's obligations, the Sponsor may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to the Sponsor for any additional cost occasioned to the Sponsor thereby.

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4. If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed to have been effected for the convenience of the Sponsor. In such event, adjustment in the contract price will be made as provided in paragraph 2 of this clause.
5. The rights and remedies of the sponsor provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

15. TRADE RESTRICTION CLAUSE (all AIP-funded projects)

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract at no cost to the Government.

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide

ATTACHMENT "F"
FEDERAL AVIATION ADMINISTRATION (FAA) CONTRACT PROVISIONS

written notice to the contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Sponsor cancellation of the contract or subcontract for default at no cost to the Government.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

16. TEXTING WHEN DRIVING (all contracts)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

The Contractor must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Contractor must include these policies in each third party subcontract involved on this project.



Agenda Item 3.2

Professional Services Agreement – Construction Management EPIA Checked Baggage Inspection System

Strategic Plan Goal:

- 1) Create an Environment Conducive to Strong, Sustainable Economic Development***
- 2) Set The Standard for a Safe and Secure City***
- 7) Enhance and Sustain El Paso's Infrastructure Network***

December 6, 2016

"Delivering Outstanding Services"

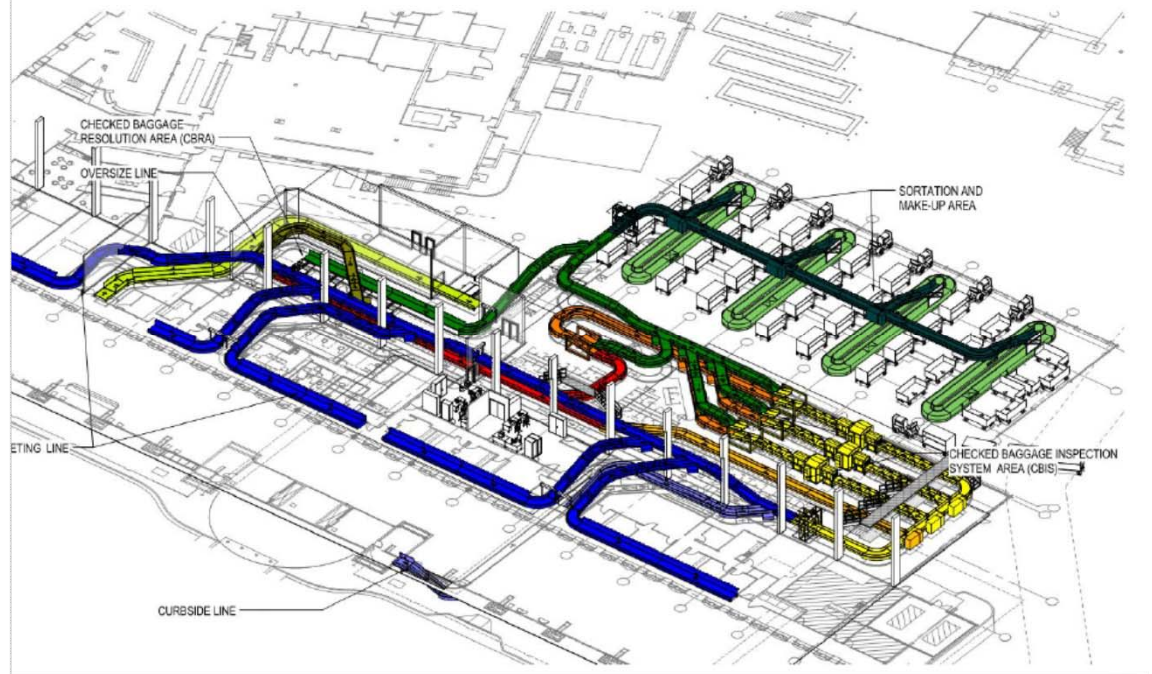


Construction Management - EPIA Checked Baggage Inspection System

Project Scope

The construction management firm will be responsible for administering the construction contract:

- Monitoring compliance with FAA and TSA regulations
- Monitoring quality and compliance with contract documents
- Measuring project progress and performance
- Providing status reports and construction documentation
- Coordinating construction activities amongst stakeholders
- Monitoring safety in the construction area



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Construction Management - EPIA Checked Baggage Inspection System

Solicitation Summary

- Professional Services Agreement
 - Solicitation advertised for 11 days
 - Three (3) local firms submitted Statement of Qualifications



Construction Management - EPIA Checked Baggage Inspection System

Consultant Selection

- Selection process was qualification based
- Reasons for selecting consultant
 - Demonstrated project manager and team experience
 - Proven engineering solutions and construction phase services on past and present EPIA projects
 - Demonstrated project understanding and approach
 - Identification of innovative techniques

"Delivering Outstanding Services"



Construction Management - EPIA Checked Baggage Inspection System

Recommendation

- The Scoping and Evaluation Team recommends ECM International, Inc. as the most qualified consultant and award of contract in the amount of \$1,517,869.94
- Schedule
 - Twenty-eight months



Construction Management - EPIA Checked Baggage Inspection System

End of Presentation

Questions & Comments

"Delivering Outstanding Services"