NOTICE TO CONTRACTORS

As a temporary measure and in response to the City’s efforts to reduce the potential risks of COVID-19, the City will conduct a “virtual” public bid opening for this project in accordance with City Charter Section 1217(e) and SJMC Section 27.10.140.

Interested parties should use the following information to hear the City announce the aggregate bid of each bidder.

Dial by your location
+1 669 900 9128 US (San Jose)
+1 213 338 8477 US (Los Angeles)
+1 646 518 9805 US (New York)

Meeting ID: 999 7709 9496
Passcode: 044714

https://zoom.us/j/99977099496?pwd=SlJXd1UwOVRuZHNzd2tXL2dZK1lNdz09

All proposals must still be filed at 200 E. Santa Clara St, San Jose, CA 95113-1905, on or before 3:00 p.m. as specified below. Following the “virtual” public bid opening, proposals will be uploaded to https://www.biddingo.com/sanjose.

INTRODUCTION

Sealed written proposals are invited by the CITY OF SAN JOSE for:

9405 - Mineta San José International Airport - Perimeter Protection Project

In accordance with and as described and provided in the Plans and Specifications thereof and the proposed form of contract thereof, all of which are on file in the office of the Director of Public Works of the City, and which are made a part hereof.

PLANS AND SPECIFICATIONS

The City is using Biddingo, an online bid solicitation website, to facilitate this procurement. You must register with Biddingo to participate in this procurement. There is no cost associated with registering.
To register, bidders must go online to https://www.biddingo.com/sanjose. This procurement is registered under the bid number and bid name above and has the following commodity code classifications(s):

107500 – Concrete;
100301 – Construction – Backfill, Digging, Ditching, Grading, Rock Stabilization, Etc;
100305 – Construction – Other;
100310 – Construction – Structural and Reinforcement Steel;
025000 – Electrical Services;
028000 – Fencing;
070500 – Security and Surveillance

All documents and information related to this procurement are on the Biddingo website under the bid number and bid name above. Once registered, bidders can view and download information regarding this procurement, including the bid and contract documents, as well as submit questions related to the bid and contract documents. The City will only respond to questions submitted on Biddingo and questions may not be asked or submitted any other way. The City will respond to all questions submitted on Biddingo as quickly and as far in advance of the bid filing date as is reasonable. When a bidder views or downloads documents for this bid, the bidder becomes a “document taker.” Biddingo will send “document takers” a notification every time the City posts an addendum, responds to a question and/or provides new information related to this procurement. Each bidder is responsible for selecting the appropriate notification options related to its Biddingo account.

Bidders are responsible for periodically checking Biddingo to make sure they have the most recent and up-to-date information about this procurement. Bidders can only rely on information obtained through Biddingo. Bidders cannot rely on any other written or oral statements of the City or its officers, directors, employees or agents regarding this procurement. In the event a bidder obtains information about this request for bids through any means other than Biddingo, the City will not be responsible for the completeness, accuracy or timeliness of the final bid.

FILING OF BIDS

All proposals must be filed with the Director of Public Works, City of San José, City Hall, 200 E. Santa Clara St., San José, CA 95113-1905, on or before 3:00 p.m. on February 18, 2021.

ACCESS TO CITY HALL IS CURRENTLY RESTRICTED. PROPOSALS MUST BE DEPOSITED IN THE LOCKED COURIER BOX MARKED “DEPARTMENT OF PUBLIC WORKS BID DROP BOX,” WHICH IS LOCATED NEXT TO THE PUBLIC ENTRANCE ON 6TH STREET.

BIDDERS BOND

Each bid must be accompanied by cash, a certified check, a cashier's check or a bidder's bond in the sum of not less than 10% the total aggregate amount of the bid. Checks shall be made payable
to the order of the City of San José. Bonds shall be executed by a surety possessing a valid certificate of authority issued by the California Department of Insurance and shall name the City of San José as beneficiary. All bids must be addressed to the Director of Public Works, City of San José, shall bear the Project Number and Name and be in a sealed envelope.

**PRE-BID MEETING**

A non-mandatory pre-bid meeting and virtual site visit will be held on **February 2, 2021 at 10AM PST via ZOOM** (link below). This meeting will be held to allow potential bidders to view the project location. No questions will be answered at this meeting. Attendance at the pre-bid conference is not mandatory.

Dial by your location
+1 669 219 2599 US (San Jose)
+1 669 900 9128 US (San Jose)
+1 213 338 8477 US (Los Angeles)
Meeting ID: 969 1323 8321
Passcode: 652196

[https://zoom.us/j/96913238321?pwd=ZkFpRjrxKzF1T25UYjNmQ0Q4SEVTUT09](https://zoom.us/j/96913238321?pwd=ZkFpRjrxKzF1T25UYjNmQ0Q4SEVTUT09)

**DEPOSIT OF SECURITIES IN LIEU OF RETENTION**

Pursuant to the terms and conditions set forth in Public Contracts Code Section 22300, the contractor may substitute certain securities for any money withheld by City as retention to ensure contractor’s performance under the contract. Such substitution of securities in lieu of retention shall be at the contractor’s request and at contractor’s sole expense. The securities shall be in an amount equivalent to the retention to be released.

**PREVAILING WAGES (Municipal Affair)**

This project is a “public works” as defined in Sections 1720 through 1720.6 of the California Labor Code. In accordance with Chapter 14.09 of the San José Municipal Code entitled “Prevailing Wage Requirements for City Contracts Involving Public Works,” the contractor will be required to comply with the prevailing wage provisions in California Labor Code Sections 1720 through 1861, and the City’s Office of Equality Assurance is authorized to provide certain local enforcement of those provisions. As such, the contractor will need to pay not less than the general prevailing rate of per diem wages and the general prevailing rates for holiday and overtime work.

See Section 7-1.01a(3) of the Special Provisions for the prevailing wage requirements applicable to the contract. Copies of the prevailing rate of per diem wages and the general prevailing wage rates for holiday and overtime work in effect for this project are on file and available for your review from the City’s Office of Equality Assurance at 408-535-8430.

**CONTRACTOR’S LICENSE REQUIREMENTS**
All prospective bidders are hereby cautioned that the Contractor’s State License Law regulates contractor licensing matters. The Contractor, in its bid proposal, shall be required to disclose its license type, number, and expiration date.

Bidders must have a California contractor’s license, classification C-10 to bid this project.

NOTE: For this Project the City is requiring that the contractor performing all or part of any of the civil components of the Project, to have an A license. The civil components include but not limited to: removal & installation of fencing, saw cutting, pavement removal, excavation, demo, placing foundation and footings for fencing, backfilling, pavement improvements, and bollard placement. If the bidder intends to self-perform any of this work, it must have an A license. Otherwise, the bidder must identify on the Subcontractor Listing Form a subcontractor with A license to perform the work.

**CONTRACTOR DIR REGISTRATION REQUIREMENTS**

The contractor and all listed subcontractors must be registered with the Department of Industrial Relations in accordance with California Labor Code Sections 1725.5 and 1771.1. The City will not accept a bid in which the contractor or any of the listed subcontractors are not registered in accordance with Sections 1725.5 and 1771.1.

See Section 2-1.17 of the Special Provisions for the “registration” requirements applicable to the contract.

**NONDISCRIMINATION/NONPREFERENTIAL TREATMENT**

The Nondiscrimination/Nonpreferential Treatment requirements of Chapter 4.08 of the San José Municipal Code apply to this project.

**BOND REQUIREMENTS**

Bidder’s attention is directed to those provisions of the Specifications which require the contractor to whom the contract for the work is awarded, to file with the City Clerk at the time the contract is executed, a Contractor’s Payment Bond and a Bond for Faithful Performance meeting all the requirements of the Specifications and approved by the City Attorney of the City of San José. Bonds shall be executed by a surety possessing a valid certificate of authority issued by the California Department of Insurance and shall name the City of San José as beneficiary. The Contractor’s Faithful Performance Bond shall be for 100% of the contract amount. The Contractor’s Payment Bond shall be for 100% of the contract amount.

**AIRPORT SPECIFIC PROVISIONS**
The following provisions are unique to Airport procurements. For purposes of this “Airport Specific Provisions” section only, the following words have the following meaning: (1) “applicant,” “offeror,” and “bidder” mean “proposer,” (2) “bid” and “offer” means the “PROPOSAL TO SAN JOSE,” (3) “sub-consultant” means “sub-contractor,” and (4) “owner” and “sponsor” mean “City.”

1. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity
   This provision applies to this procurement if any of the services provided by the Contractor will be, or might be, AIP funded, and the construction work exceeds $25,000.

   1. The Offeror’s or Bidder’s attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Opportunity Construction Contract Specifications” set forth herein.

   2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor’s aggregate workforce in each trade on all construction work in the covered area, are as follows:

      Timetables
      • Goals for minority participation for each trade: 19.6%
      • Goals for female participation in each trade: 6.9%

   These goals are applicable to all of the Contractor’s construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

   The Contractor’s compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor’s goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.
3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the “covered area” is City.

2. Buy American Preference
This provision applies to this procurement if any of the services provided by the Contractor will be, or might be, AIP funded.

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 Federal Aviation Administration 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 complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

3. Title VI Solicitation Notice
The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

4. Certification Of Proposer Regarding Debarment:
This provision applies to this procurement if any of the services provided by the Contractor will be, or might be, AIP funded, and the maximum compensation of the resulting agreement will exceed $25,000.

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.
Furthermore, the successful proposer, by administering each lower tier sub-consultant agreement that exceeds $25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

2. Collecting a certification statement similar to the Certification of Proposer Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

5. Disadvantaged Business Enterprise (DBE):

5.1 General: Because it anticipates being awarded $250,000 or more in AIP funded contracts during the federal fiscal year, the City has an approved DBE program on file with the FAA. A copy of the Airport’s FAA-approved Federal Fiscal Year 2020-2022 Program and DBE goal methodology is available at:

https://www.flysanjose.com/standards-and-guidelines/dbe

If the Project is FAA AIP-Funded, then the Airport’s DBE Program is available in Part 8 of the procurement document.

5.2 Program Goal: Under the DBE program, the City has established an overall DBE participation goal of 4.1% for the Airport for Federal Fiscal Years 2020-2022. The City is committed to meeting its overall DBE participation goal from 100% race-neutral participation and 0% through race-conscious measures (contract goals). No contract goal has been established for this procurement and no demonstration of good faith efforts is required.

5.3 Disadvantaged Business Enterprise (DBE) firms may be able to participate in this project either as a prime contractor or subcontractor.

5.4 City Expectations: The City is committed to attracting and enhancing diverse business participation of disadvantaged business enterprises, minority-owned businesses, women-owned businesses and other small and local businesses in its Airport contracts. The Airport and City encourage and expect contractors bidding this Airport project to do the same.
5.5 **Becoming a Certified DBE:** The City also encourages minority and women-owned firms that may qualify as DBEs to become certified. Firms interested in applying for DBE certification can learn about certification requirements and apply at [http://www.dot.ca.gov/hq/bep/business_forms.htm](http://www.dot.ca.gov/hq/bep/business_forms.htm). Please note that DBE firms must be certified as such prior to execution of an agreement.

5.6 The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

6. **Federal Fair Labor Standards Act (FLSA)**

All agreements and sub-agreements that result from this procurement will incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The successful proposer will have full responsibility to monitor compliance to the referenced statute or regulation. The successful proposer will have to address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

7. **Lobbying And Influencing Federal Employees - Certification Regarding Lobbying**

This provision applies to this procurement if any of the services by the Contractor will be, or might be, AIP funded and the maximum compensation of the resulting agreement will exceed $100,000.

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.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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.

8. Tax Delinquency and Felony Convictions
If the procurement involves FAA AIP funds, a bidder or offeror must complete and submit the Certification of Offeror/Bidder Regarding Tax Delinquency and Felony Convictions included herein with their bid or offer. The City will reject as nonresponsive any bid or offer that does not include a completed Certification of Offeror/Bidder Regarding Tax Delinquency and Felony Convictions (FC-2).

9. Trade Restriction Certification
This provision applies to this procurement if any of the service provided by the Contractor will be, or might be, AIP funded.

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1) 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 as published by the Office of the United States Trade Representative (USTR);
2) 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 included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

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 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The
Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no agreement shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

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.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

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

10. **Special Requirements as a Condition of Federal Funding.**

This provision applies to this procurement if any of the service provided by the Contractor will be, or might be, AIP funded.

“This Project contains special requirements as a condition of Airport Improvement Program (AIP) grant funding administered by the United States Federal Aviation Administration (FAA). The Contractor is directed to the FAA General Provisions (Part 10 of the Project specifications), and the Contract for more details, which are required as part of the Project and bid documents (collectively, the “Special Requirements as a Condition of Federal Funding”). In addition to the City’s right to reject all bids or proposals pursuant to Section 2-1.06 of the City of San José Department of Public Works Standard
Specifications, dated July 1992 (“Standard Specifications”), the City expressly reserves the right to reject all bids or proposals and to cancel this Project in the event that the City does not receive AIP grant funding for this Project. In the event of a conflict between any of the Special Requirements as a Condition of Federal Funding and any other provision of the Standard Specifications, as amended, the Contract or any other provision of the Project specifications, the Special Requirements as a Condition of Federal Funding shall prevail.”

11. **Project’s Mitigation Measure Determination.**

Effective April 2020, the San Jose City Council approved an Integrated Final Environmental Impact Report (“EIR”) for that certain Amendment to Norman Y. Mineta San Jose International Airport Master Plan (PP 18-103). This EIR is available from City’s Planning, Building & Code Enforcement (“PBCE”) department at:

https://www.sanjoseca.gov/Home/ShowDocument?id=61640

The EIR is subject to a “Mitigation Monitoring and Reporting Program”. With respect to the Project contemplated by this procurement, PBCE has issued a “Mitigation Measure Determination”. The Project’s Mitigation Measure Determination is included with the procurement documents.

By order of the Council of the City of San José.

DATED: ___________________________ CITY OF SAN JOSE
A Municipal Corporation of the State of California

By ___________________________
DIRECTOR OF PUBLIC WORKS