

**REQUEST FOR QUALIFICATION (RFQ)  
FOR PARKING CONSULTING SERVICES  
AT THE DAYTON INTERNATIONAL AIRPORT**

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Issued by:

CITY OF DAYTON  
(Department of Aviation)  
July 9, 2010

ONE (1) ORIGINAL AND THREE (3) COPIES OF THE RESPONSE SHALL BE SUBMITTED

All Statement of Qualifications responses shall be addressed and sent to:

**City of Dayton - Department of Aviation  
Attn: Elizabeth Davis  
Airport Properties Manager  
Dayton International Airport  
3600 Terminal Drive, Suite 300  
Vandalia, OH 45377  
[edavis@flydayton.com](mailto:edavis@flydayton.com)**

The outside of each envelope or package must be labeled:

“RFQ for Parking Consulting Services”

[Name and Address of Respondent]

**RESPONSES MUST BE RECEIVED NO LATER THAN 4:00 P.M., E.D.T.  
JULY 30, 2010**

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## **GENERAL BACKGROUND**

The City of Dayton, Ohio (“City”) owns and, through its Department of Aviation, operates the James M. Cox Dayton International Airport (“Airport”). The Airport serves approximately three million passengers annually (total of arriving and departing passengers).

## **INVITATION**

The City currently operates its public parking lots and a new parking garage through a Management Contract with Republic Parking/NFR&CS of Dayton (the “Agreement”). The current Agreement will expire on August 31, 2011. The City intends to issue a Request for Proposals (“RFP”) for a parking operator in early 2011.

The consultant chosen must be able to provide assistance in reviewing and finalizing an RFP (draft to be provided by City) for a parking operator, provide on-site assistance during any pre-proposal meetings, provide assistance in responding to questions concerning the RFP from potential operators, review and analysis of the RFP responses and assisting Airport staff in developing a recommendation for an operator, and provide assistance in reviewing and finalizing a new Management Contract (draft to be provided by City). The City may also request that consultant provide an analysis of the existing parking rate structure and recommendations.

The City currently has a Management Contract in which it reimburses the operator for operating expenses on a monthly basis plus a management fee. The City desires to solicit proposals for a modified Management Contract in which the operator will charge the City a management fee and the City will not reimburse expenses. The City intends to modify the existing RFP and Management Contract to accommodate these changes.

Any and all contact or questions concerning this RFQ shall be in writing sent to Elizabeth Davis, Airport Properties Manager, via e-mail at [edavis@flydayton.com](mailto:edavis@flydayton.com), or by fax at (937) 454-8284. All questions or comments to this RFQ must be received not later than 4:00 p.m. E.D.T. on July 15, 2010. Answers to all questions will be posted via an addendum on the Airport’s website at [www.flydayton.com](http://www.flydayton.com), click on the tab for “Business Opportunities” and then select “Solicitations & Proposals”. Results of the selection process will be announced at a day and time to be determined by the City.

## **EVALUATION AND SELECTION PROCESS**

Responses shall be organized and tabbed to correspond to items 1-5 below. The consultant’s responses must be brief and concise on single-sided standard letter (8 ½ x 11) size pages. One (1) original and three (3) copies of the response shall be submitted no later than the time, date and place specified on Page 1 of this RFQ. Responses submitted after the time and date specified herein will not be accepted.

All responses to this RFQ will be evaluated by a selection committee to be determined. The total available points will be one hundred (100). Points will be assigned by each committee member,

and then averaged. The following are the required submittal contents, together with the potential points available for each content category:

**1. Cover Letter (0-5 points)**

A transmittal letter on company letterhead signed by an officer or representative duly authorized to contractually bind the proposing entity, with the name, address and telephone number of a contact person for questions concerning the response. Consultant may include a statement of why the firm and team should be selected.

**2. Experience (0-40 points)**

Provide a narrative of prior experience within the past 5 years and qualifications in airport parking consulting services as the services specifically relate to the items identified in the “Invitation” section of this RFQ. Provide a list of similar parking projects (including dates of each such project) that you (and any proposed team members) completed and/or had substantial involvement. Include a description of the work performed. Provide the names of the individuals that were assigned to the projects described and state if those individuals are proposed for this engagement. Identify Consultant and any proposed key personnel to be involved with the project and provide their resumes.

**3. Capacity and Resources Available to Perform Services (0-35 points)**

Provide the availability of personnel/individuals to be assigned to this engagement. Describe the proximity of the specific office or location that will perform the work, and, if not the main/home office, explain its capability to obtain necessary support from the main/home office.

**4. References (0-20 points)**

Provide the name, address, telephone number and email address of at least three (3) airport clients that are familiar with the quality of work performed by your firm of similar nature.

**5. Additional Information**

Consultants responding to this RFQ are encouraged to provide opportunities to certified Disadvantaged Business Enterprises (DBE). Consultants may search [www.ohioucp.org](http://www.ohioucp.org) or contact the City’s Human Relations Council (937/333-1413) for a list of certified DBE firms that can provide the services described in this RFQ.

Consultant may provide any information that is relevant to the selection process as an appendix to its response. Please note that any supplemental information supplied will not be counted against the page total and will not be considered during scoring.

Firms/individuals may be requested to attend an interview with City staff in Dayton, Ohio to further discuss their response. The City will negotiate the terms for an agreement with the consultant ranked first. In the event negotiations are not successful, the City will initiate discussions with the second ranked and so on.

### **MISCELLANEOUS**

1. The City is neither obligated nor legally bound in any manner whatsoever by the consultant's submission of a qualification package. The City also reserves the right to make changes to this RFQ.
2. Any false statement(s) made by respondent will void the submittal and eliminate the consultant from further consideration. Verbal responses to inquiries shall not be binding; only written addenda to this RFQ will modify its terms.
3. Notwithstanding any other provision of this RFQ and in addition to any other rights reserved by the City herein, the City reserves to itself the following rights:
  - The right to modify or amend any provision of this RFQ, including, without limitation, the provisions of the Agreement. A sample agreement is attached as Exhibit A.
  - The right to reject in whole or in part any or all submittals for any reason.
  - The right to cancel its award to any firm(s) at any time before an agreement with such firm(s) has been fully executed and delivered; and City reserves the right to so cancel its award to a consultant without any liability.
  - The right not to award to any consultant(s) that is in arrears or in default to the City upon any debt or contract or that has failed to perform satisfactorily and faithfully under any previous agreements with the City.
4. Should the City find a discrepancy in the RFQ, it reserves the right to provide written instructions to all proposers in the form of addenda to the RFQ. The City is not bound by any oral statements
5. The specific terms of the engagement for professional services will be governed by the terms of a final negotiated agreement. In the event of a conflict between the provisions of the final agreement and any provision of the RFQ, the provisions of the agreement shall control.
6. The City is not responsible for any costs incurred by consultant(s) in preparing the response or in attending any meetings, and or preparing any presentations to Aviation and/or City staff in connection with their RFQ.

7. Before the City will execute any agreement resulting from the response to this RFQ, the consultant will be required to complete and submit an Affirmative Action Assurance form. A copy of the form is attached (Exhibit B) and any questions concerning the program should be directed to:

City of Dayton Human Relations Council  
371 West Second Street # 100  
Dayton, Ohio 45402  
(937) 333-1413

8. Entities responding to this RFQ may be required to execute a “Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization.” Information concerning this Declaration and a copy of the form is found at the following web address:  
<http://www.homelandsecurity.ohio.gov>.

### **SCHEDULE**

- RFQ Published Date: July 9, 2010
- Last Date for Questions/Comments: July 15, 2010
- Responses to Questions: July 22, 2010
- Due Date: July 30, 2010

**EXHIBIT A**  
**SAMPLE AGREEMENT**

**PROFESSIONAL SERVICES AGREEMENT  
(Parking Consulting Services)**

**THIS PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the City of Dayton, Ohio, (“City”), a municipal corporation in and of the State of Ohio, and \_\_\_\_\_ (“Consultant”), an entity incorporated under the laws of the State of \_\_\_\_\_ and having its principal offices located at \_\_\_\_\_.

**WITNESSETH THAT:**

**WHEREAS**, the City owns and, through its Department of Aviation, operates the improved real property known and referred to as the James M. Cox Dayton International Airport (hereinafter “Airport”); and

**WHEREAS**, the City’s Department of Aviation identified a need for certain professional parking consulting services at the Airport; and

**WHEREAS**, the Consultant represented that it is, and will continue during the term of this Agreement to be, a skilled, experienced and competent parking consulting firm, with the personnel required to perform the professional services set forth hereinafter.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth below, the parties agree as follows:

**SECTION 1. SCOPE OF SERVICES**

The Consultant shall provide those professional services set forth in Exhibit A, “SCOPE OF SERVICES”, which is attached hereto and incorporated herein, to the extent such services are requested from time to time by the City for the projects at the Airport.

Once the City identifies a particular service to be performed by the Consultant, the parties will agree upon a written time schedule for performance of such services. The schedule(s) shall include allowances for periods of time, if any, required for the City’s review and approval of submissions to authorities having jurisdiction over the City project, if any.

The Consultant's professional services to be provided hereunder are to be performed with first-class professional skill and care in this specialized field of work, and to the reasonable satisfaction of the City.

**SECTION 2. PAYMENT**

Total remuneration in this Agreement shall not exceed the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for all services provided by the Consultant in accordance with Section 1, and including any reimbursable expenses related to performance of such services.

- A. Compensation for services. Payment for the professional services provided by the Consultant is based on the hourly rate of \_\_\_\_\_ (\$\_\_\_\_\_). Consultant's hourly time charges shall be determined on a portal-to-portal basis, with partial hourly billings based on ten (10) minute minimum increments.
- B. Reimbursable expenses. In addition to the compensation for services, the City will reimburse the Consultant for its expenses reasonably incurred in completion of the professional services provided under this Agreement. However, payment for such reimbursable expenses shall be subject to the following limitations:
1. Local automobile travel expenses are included in the hourly rates paid as compensation for services. Automobile travel expenses for any destination outside of Montgomery County, Ohio will be reimbursable at the rate of fifty and one-half cents (\$.505) per mile.
  2. Reimbursable expenses are limited to those out-of-pocket expenses paid by the Consultant to some third party, excluding itself, its employees, and any consultant(s) or sub-consultant(s) or third party that the Consultant has an ownership interest in or with which the Consultant has some rebate, commission or other arrangement whereby the Consultant receives payments or benefits in consideration for services or product orders given to that third party.
  3. Amounts billed as reimbursable expenses are limited to direct costs incurred by the Consultant and shall not include any multiple or additional percentage of those costs.
  4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the professional services to be performed. The cost of alcoholic beverages will not be reimbursed.
  5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses, if requested by the City.
- C. Billing Frequency. The Consultant shall submit invoices for payment, not more frequently than monthly, for payment. Such invoices shall detail the professional services provided during the invoice period, list the total charges for such professional services, number of hours the Consultant's personnel devoted to performance of such services, and total amount of reimbursable expenses incurred during the invoice period, listed by category and type of expense. All invoices shall be accompanied by such supporting documentation and information substantiating the invoiced amount or expenses incurred, as may be requested by the City. Unless disputed, the City shall tender payment within thirty (30) days of receipt of the Consultant's invoice.

### **SECTION 3. ASSIGNMENT AND LIMITATIONS ON SUBCONTRACTING**

- A. Restriction against assignment. The City is relying upon the professional skill and experience of the Consultant. Therefore, assignment of this Agreement by Consultant is prohibited.
- B. Limitations on subcontracting. Because the City is relying upon the professional skill and experience of the Consultant, no part of the professional services to be provided hereunder

may be subcontracted by the Consultant to other organizations or sub-consultants without the prior written and express consent of the City. Any such consent shall be deemed to require, even though not stated in the consent language, that a written contract be used between the Consultant and such a consented-to subcontractor or sub-consultant (both referred to as “sub-consultant”), that such a contract be approved in advance by the City and contain, unless waived by the City, provisions similar or identical to those in this Agreement. The Consultant shall, at all times, remain primarily responsible for the professional services and duties it may delegate to any sub-consultant as the Consultant is for its own performance. The mere fact that the Consultant used reasonable care in selecting the sub-consultant shall not relieve its primary responsibility nor shall consent by the City to part of the professional services being subcontracted to a sub-consultant or approval of the terms of a contract with a sub-consultant relieve the Consultant’s primary responsibility for the professional services.

- C. Termination of Agreement for Cause. If, through any cause, the Consultant fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant defaults in the performance of any terms or conditions of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Consultant specifying the effective date of the termination, at least five (5) days before such effective date. In the event of such termination, the Consultant will be paid for the professional services actually performed and reasonable expenses incurred up to the effective date of termination.
- D. Termination of Agreement without Cause. The City may terminate this Agreement at any time and without cause upon giving the Consultant fifteen (15) days prior written notice. The notice of termination shall be made by mailing written notice to Consultant by certified mail to its usual place of business. If such termination occurs, the Consultant will be paid for the professional services actually performed and reasonable expenses incurred up to the effective date of termination.

**SECTION 4. TERM**

This Agreement shall commence on \_\_\_\_\_, 20\_\_ and shall terminate on \_\_\_\_\_, 20\_\_.

**SECTION 5. DISPUTE RESOLUTION**

- A. Mediation Period. If during the term of this Agreement the parties are unable to resolve a dispute or controversy among themselves, prior to instituting any court action or demanding arbitration, the parties shall first try, in good faith, to settle the dispute by non-binding mediation administered by the Dayton Mediation Center. All mediation proceedings shall take place in Montgomery County, Ohio.
- B. Arbitration. If a dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree in writing to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. The arbitration will be conducted in accordance with the procedures contained herein and the Arbitration Rules for Professional Accounting and Related Services Disputes of the AAA as

in effect on the date of the Engagement Letter (“AAA Rules”). In the event of a conflict, these procedures will control.

The arbitration will be conducted in Montgomery County, Ohio before a panel of three arbitrators, regardless of the size of the dispute. Within fifteen (15) days after the commencement of arbitration, each party shall select one person to act as arbitrator and the two selected arbitrators shall select a third arbitrator within ten (10) days of their appointment. If the arbitrators selected by the parties are unable or fail to agree on a third arbitrator, the third arbitrator shall be selected as provided in the AAA Rules. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability or interpretation of these procedures, including, without limitation, any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide by and be bound by these procedures.

Either party may make an application to the arbitrators seeking injunctive relief to maintain the status quo until such time as the arbitration award is rendered or the controversy is otherwise resolved. Either party may apply to any court of competent jurisdiction within Montgomery County, Ohio and seek injunctive relief in order to maintain the status quo until such time as the arbitration award is rendered or the controversy is otherwise resolved.

The arbitrators shall not have the power to alter, amend or otherwise affect the terms of these arbitration provisions. The arbitrators will have no authority to award punitive damages or any other damages not measured by the prevailing party’s actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Engagement Letter.

The arbitrator(s) shall apply the law of Ohio, and the arbitrators’ resolution of the dispute shall be final and binding; provided, however, that either party shall be permitted to seek judicial review of the decision and award in accordance with Chapter 2711 of the Ohio Revised Code. The parties agree that the courts of Montgomery County, Ohio shall have jurisdiction over the arbitration award.

In the event a dispute arises that cannot be resolved through mediation or arbitration, and one or both parties seek relief through the court, both parties agree to waive their right to a jury trial.

## **SECTION 6. INSURANCE**

Consultant shall, at its expense, maintain with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

1. Professional Liability/Errors and Omissions Insurance, with a one million dollar (\$1,000,000) annual aggregate. This annual aggregate amount requirement for professional liability / errors and omissions may be met on a combined basis, i.e., by combining such insurance maintained by Consultant with similar insurance maintained

by any sub-consultant (to the extent that a sub-consultant is consented to by the City through the process described above in this Agreement).

2. General Liability Insurance, with a combined single limit of one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in the aggregate. Said policy shall name the City, Ohio, its elected officials, officers, agents, and employees as additional insureds.

Consultant shall also maintain Workers' Compensation Insurance in such amounts as prescribed by law.

All policy/policies of insurance to be maintained by Consultant pursuant to this Section, but excluding Workers' Compensation Insurance, shall provide that said insurance may not be cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, Consultant shall furnish the City with a copy of such certificates of insurance demonstrating compliance with this Section. Consultant shall also provide, upon the City's request, complete copies of any insurance policies required hereunder.

#### **SECTION 7. OWNERSHIP OF WORK PRODUCT AND DOCUMENTS**

All work product, including, but not limited to, documents, drawings, analysis, reports, charts, and/or graphs, which are prepared by the Consultant pursuant to this Agreement shall, upon payment by the City, become the sole and exclusive property of the City.

#### **SECTION 8. CONFIDENTIALITY**

Due to the nature of the professional services to be provided by the Consultant hereunder, the Consultant agrees that all work product, including, but not limited to, all documents, databases, reports, opinions and information prepared hereunder and/or furnished to the Consultant by the City, is confidential, and shall not be divulged, in whole or in part, to any person or entity, other than duly authorized representatives of the City, without prior written approval of the City; but excepting therefrom, instances wherein disclosure is required by law, including by order of a court of competent jurisdiction or disclosure under oath in a judicial proceeding. The Consultant shall take all necessary steps to ensure that all its employees, agents and/or contractors abide by and adhere to this confidentiality requirement.

#### **SECTION 9. CONFLICT OF INTEREST**

The City recognizes that the Consultant does not provide services exclusively to the City. During the term of this contract, the Consultant agrees not to accept employment, or to perform for or on behalf of another client whose interests are adverse to that of the City, or for which a conflict of interest between the City and the Consultant would be created, without the prior written consent of the City and the Consultant.

## **SECTION 10. INDEMNIFICATION**

To the full extent permitted by law, the Consultant shall indemnify, defend and hold the City and its elected officials, officers, agents and employees harmless from and against all claims, demands, losses and expenses, including but not limited to attorneys' reasonable fees, arising out of or resulting in whole or in part from any negligent act or omission, and/or from any failure to perform the Consultant's duties under this Agreement, attributable to the Consultant, its employees, agents, sub-consultants and any other person or entity for whose conduct the Consultant may be liable under Ohio law.

## **SECTION 11. RECORDS AND RETENTION**

Consultant shall use Generally Accepted Accounting Principles (“GAAP”) in recording and documenting all costs and expenditures related in whole or part to the performance of this Agreement. Such costs and expenditures for the professional services provided under this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and other evidence (collectively, “records”). All records shall be clearly identified and readily accessible. At any time during normal business hours and as often as the City may request, Consultant shall make available to the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its records related to this Agreement and performance of the professional services. Consultant shall also permit the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such records and to have audits made of all contract(s), invoices(s), materials, payrolls, personal records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All records relating to the professional services provided under this Agreement, including any and all supporting documentation for invoices submitted to the City, shall be retained by Consultant and made available for review by the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of four (4) years after the termination or expiration of this Agreement. Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the records pertaining to this Agreement, which commences prior to the expiration of the four-year period, Consultant shall retain such records until completion of the actions and resolution of all issues or the expiration of the three-year period, whichever occurs later.

## **SECTION 12. MISCELLANEOUS**

A. Non-Discrimination. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off determination, rates of pay, or other forms of compensation, or selection for training, including apprenticeship.

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances (RCGO) of the City constitutes a material condition of this Agreement as fully and as if specifically written herein and that failure to comply therewith shall constitute a breach thereof entitling City to terminate this Agreement at its option.

- B. Remedies. The remedies provided in this Agreement are cumulative. Delay or forbearance in the enforcement of any right under this Agreement shall not be deemed a waiver of, or estoppel against the exercise of, such right.
- C. Entire Agreement. This Agreement, together with all Exhibits referred to herein, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations and Agreements, whether oral or written.
- D. Independent Contractor Status. By executing this Agreement for professional services, the Consultant acknowledges and agrees that it will be providing services to the City as an “independent contractor”. As an independent contractor for the City, the Consultant shall be prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this subsection. The Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.

The Consultant, its employees and any approved sub-consultants performing the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City. Further, Consultant shall be responsible to withhold and pay, or cause such agents and sub-consultants to withhold and pay, all applicable local, state and federal taxes.

- E. Amendment. This Agreement may be amended by mutual agreement between the City and the Consultant. Any such amendment shall be reduced to a writing, which makes specific reference to this Agreement, approved by the Director of the Department of Aviation or his designee, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City, Ohio.
- F. Ohio Revised Code § 3517.13 Compliance. The Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.
- G. Applicable Law and Venue. This Agreement shall be governed and construed under the laws of the State of Ohio. By execution hereof, the Consultant irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.
- H. Notice. Any notice required under this Agreement shall be deemed to have been given on the date actually received or forty-eight (48) hours after having been deposited in the United States mail, postage prepaid, registered or certified, and addressed to the parties as set forth

below, whichever occurs earlier. Either party may change its address from time to time by written notice given in this manner.

If to the City:                    Director of Aviation, City, Ohio  
James M. Cox Dayton International Airport  
3600 Terminal Drive, Suite 300  
Vandalia, OH 45377

If to Consultant:                    \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN WITNESS WHEREOF**, the City and the Consultant, each by a duly authorized representative, have executed this Agreement as of the date first set forth above.

**NAME OF COMPANY**

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

Its: \_\_\_\_\_

**CITY OF DAYTON, OHIO**

\_\_\_\_\_  
City Manager

**APPROVED AS TO FORM  
AND CORRECTNESS:**

\_\_\_\_\_  
City Attorney

**APPROVED BY THE COMMISSION  
OF THE CITY OF DAYTON, OHIO:**

\_\_\_\_\_, 20\_\_

Min./Bk. \_\_\_\_\_ Pg. \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Commission

## **EXHIBIT A**

### **SCOPE OF SERVICES**

1. Assistance with reviewing and finalizing a Request for Proposals (“RFP”) for a parking operator
2. On-site assistance during pre-proposal meeting(s)
3. Review and develop responses to any questions concerning the RFP
4. Assisting with the development of a recommendation for a parking operator
5. Management contract review and comment
6. Analysis of existing parking rate structure and recommendations
7. Other related tasks

**EXHIBIT B**  
**AFFIRMATIVE ACTION ASSURANCE FORM**

**EXHIBIT A  
SAMPLE AGREEMENT**

**PROFESSIONAL SERVICES AGREEMENT  
(Parking Consulting Services)**

**THIS PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the City of Dayton, Ohio, (“City”), a municipal corporation in and of the State of Ohio, and \_\_\_\_\_ (“Consultant”), an entity incorporated under the laws of the State of \_\_\_\_\_ and having its principal offices located at \_\_\_\_\_.

**WITNESSETH THAT:**

**WHEREAS**, the City owns and, through its Department of Aviation, operates the improved real property known and referred to as the James M. Cox Dayton International Airport (hereinafter “Airport”); and

**WHEREAS**, the City’s Department of Aviation identified a need for certain professional parking consulting services at the Airport; and

**WHEREAS**, the Consultant represented that it is, and will continue during the term of this Agreement to be, a skilled, experienced and competent parking consulting firm, with the personnel required to perform the professional services set forth hereinafter.

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Once the City identifies a particular service to be performed by the Consultant, the parties will agree upon a written time schedule for performance of such services. The schedule(s) shall include allowances for periods of time, if any, required for the City’s review and approval of submissions to authorities having jurisdiction over the City project, if any.

The Consultant's professional services to be provided hereunder are to be performed with first-class professional skill and care in this specialized field of work, and to the reasonable satisfaction of the City.

**SECTION 2. PAYMENT**

Total remuneration in this Agreement shall not exceed the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for all services provided by the Consultant in accordance with Section 1, and including any reimbursable expenses related to performance of such services.

## EXHIBIT A SAMPLE AGREEMENT

- A. Compensation for services. Payment for the professional services provided by the Consultant is based on the hourly rate of \_\_\_\_\_ (\$\_\_\_\_\_). Consultant's hourly time charges shall be determined on a portal-to-portal basis, with partial hourly billings based on ten (10) minute minimum increments.
- B. Reimbursable expenses. In addition to the compensation for services, the City will reimburse the Consultant for its expenses reasonably incurred in completion of the professional services provided under this Agreement. However, payment for such reimbursable expenses shall be subject to the following limitations:
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  3. Amounts billed as reimbursable expenses are limited to direct costs incurred by the Consultant and shall not include any multiple or additional percentage of those costs.
  4. In order to be reimbursable, expenses must have been reasonably appropriate or must have been necessary, when evaluated in the light of the professional services to be performed. The cost of alcoholic beverages will not be reimbursed.
  5. Signed, legible and explanatory receipts must be submitted for all reimbursable expenses, if requested by the City.
- C. Billing Frequency. The Consultant shall submit invoices for payment, not more frequently than monthly, for payment. Such invoices shall detail the professional services provided during the invoice period, list the total charges for such professional services, number of hours the Consultant's personnel devoted to performance of such services, and total amount of reimbursable expenses incurred during the invoice period, listed by category and type of expense. All invoices shall be accompanied by such supporting documentation and information substantiating the invoiced amount or expenses incurred, as may be requested by the City. Unless disputed, the City shall tender payment within thirty (30) days of receipt of the Consultant's invoice.

### **SECTION 3. ASSIGNMENT AND LIMITATIONS ON SUBCONTRACTING**

- A. Restriction against assignment. The City is relying upon the professional skill and experience of the Consultant. Therefore, assignment of this Agreement by Consultant is prohibited.
- B. Limitations on subcontracting. Because the City is relying upon the professional skill and experience of the Consultant, no part of the professional services to be provided hereunder

## EXHIBIT A SAMPLE AGREEMENT

may be subcontracted by the Consultant to other organizations or sub-consultants without the prior written and express consent of the City. Any such consent shall be deemed to require, even though not stated in the consent language, that a written contract be used between the Consultant and such a consented-to subcontractor or sub-consultant (both referred to as “sub-consultant”), that such a contract be approved in advance by the City and contain, unless waived by the City, provisions similar or identical to those in this Agreement. The Consultant shall, at all times, remain primarily responsible for the professional services and duties it may delegate to any sub-consultant as the Consultant is for its own performance. The mere fact that the Consultant used reasonable care in selecting the sub-consultant shall not relieve its primary responsibility nor shall consent by the City to part of the professional services being subcontracted to a sub-consultant or approval of the terms of a contract with a sub-consultant relieve the Consultant’s primary responsibility for the professional services.

- C. Termination of Agreement for Cause. If, through any cause, the Consultant fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant defaults in the performance of any terms or conditions of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Consultant specifying the effective date of the termination, at least five (5) days before such effective date. In the event of such termination, the Consultant will be paid for the professional services actually performed and reasonable expenses incurred up to the effective date of termination.
  
- D. Termination of Agreement without Cause. The City may terminate this Agreement at any time and without cause upon giving the Consultant fifteen (15) days prior written notice. The notice of termination shall be made by mailing written notice to Consultant by certified mail to its usual place of business. If such termination occurs, the Consultant will be paid for the professional services actually performed and reasonable expenses incurred up to the effective date of termination.

### **SECTION 4. TERM**

This Agreement shall commence on \_\_\_\_\_, 20\_\_ and shall terminate on \_\_\_\_\_, 20\_\_.

### **SECTION 5. DISPUTE RESOLUTION**

- A. Mediation Period. If during the term of this Agreement the parties are unable to resolve a dispute or controversy among themselves, prior to instituting any court action or demanding arbitration, the parties shall first try, in good faith, to settle the dispute by non-binding mediation administered by the Dayton Mediation Center. All mediation proceedings shall take place in Montgomery County, Ohio.
  
- B. Arbitration. If a dispute has not been resolved within 90 days after the written notice beginning the mediation process (or a longer period, if the parties agree in writing to extend the mediation), the mediation shall terminate and the dispute will be settled by arbitration. The arbitration will be conducted in accordance with the procedures contained herein and the Arbitration Rules for Professional Accounting and Related Services Disputes of the AAA as

## EXHIBIT A SAMPLE AGREEMENT

in effect on the date of the Engagement Letter (“AAA Rules”). In the event of a conflict, these procedures will control.

The arbitration will be conducted in Montgomery County, Ohio before a panel of three arbitrators, regardless of the size of the dispute. Within fifteen (15) days after the commencement of arbitration, each party shall select one person to act as arbitrator and the two selected arbitrators shall select a third arbitrator within ten (10) days of their appointment. If the arbitrators selected by the parties are unable or fail to agree on a third arbitrator, the third arbitrator shall be selected as provided in the AAA Rules. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability or interpretation of these procedures, including, without limitation, any contention that all or part of these procedures are invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. No potential arbitrator may serve on the panel unless he or she has agreed in writing to abide by and be bound by these procedures.

Either party may make an application to the arbitrators seeking injunctive relief to maintain the status quo until such time as the arbitration award is rendered or the controversy is otherwise resolved. Either party may apply to any court of competent jurisdiction within Montgomery County, Ohio and seek injunctive relief in order to maintain the status quo until such time as the arbitration award is rendered or the controversy is otherwise resolved.

The arbitrators shall not have the power to alter, amend or otherwise affect the terms of these arbitration provisions. The arbitrators will have no authority to award punitive damages or any other damages not measured by the prevailing party’s actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Engagement Letter.

The arbitrator(s) shall apply the law of Ohio, and the arbitrators’ resolution of the dispute shall be final and binding; provided, however, that either party shall be permitted to seek judicial review of the decision and award in accordance with Chapter 2711 of the Ohio Revised Code. The parties agree that the courts of Montgomery County, Ohio shall have jurisdiction over the arbitration award.

In the event a dispute arises that cannot be resolved through mediation or arbitration, and one or both parties seek relief through the court, both parties agree to waive their right to a jury trial.

### **SECTION 6. INSURANCE**

Consultant shall, at its expense, maintain with an insurance company authorized to do business in the State of Ohio and having at least an “A” rating from A.M. Best, the following insurance:

1. Professional Liability/Errors and Omissions Insurance, with a one million dollar (\$1,000,000) annual aggregate. This annual aggregate amount requirement for professional liability / errors and omissions may be met on a combined basis, i.e., by combining such insurance maintained by Consultant with similar insurance maintained by

## EXHIBIT A SAMPLE AGREEMENT

any sub-consultant (to the extent that a sub-consultant is consented to by the City through the process described above in this Agreement).

2. General Liability Insurance, with a combined single limit of one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) in the aggregate. Said policy shall name the City, Ohio, its elected officials, officers, agents, and employees as additional insureds.

Consultant shall also maintain Workers' Compensation Insurance in such amounts as prescribed by law.

All policy/policies of insurance to be maintained by Consultant pursuant to this Section, but excluding Workers' Compensation Insurance, shall provide that said insurance may not be cancelled or terminated without thirty (30) days prior written notice to the City. Upon execution of this Agreement, Consultant shall furnish the City with a copy of such certificates of insurance demonstrating compliance with this Section. Consultant shall also provide, upon the City's request, complete copies of any insurance policies required hereunder.

### **SECTION 7. OWNERSHIP OF WORK PRODUCT AND DOCUMENTS**

All work product, including, but not limited to, documents, drawings, analysis, reports, charts, and/or graphs, which are prepared by the Consultant pursuant to this Agreement shall, upon payment by the City, become the sole and exclusive property of the City.

### **SECTION 8. CONFIDENTIALITY**

Due to the nature of the professional services to be provided by the Consultant hereunder, the Consultant agrees that all work product, including, but not limited to, all documents, databases, reports, opinions and information prepared hereunder and/or furnished to the Consultant by the City, is confidential, and shall not be divulged, in whole or in part, to any person or entity, other than duly authorized representatives of the City, without prior written approval of the City; but excepting therefrom, instances wherein disclosure is required by law, including by order of a court of competent jurisdiction or disclosure under oath in a judicial proceeding. The Consultant shall take all necessary steps to ensure that all its employees, agents and/or contractors abide by and adhere to this confidentiality requirement.

### **SECTION 9. CONFLICT OF INTEREST**

The City recognizes that the Consultant does not provide services exclusively to the City. During the term of this contract, the Consultant agrees not to accept employment, or to perform for or on behalf of another client whose interests are adverse to that of the City, or for which a conflict of interest between the City and the Consultant would be created, without the prior written consent of the City and the Consultant.

## EXHIBIT A SAMPLE AGREEMENT

### **SECTION 10. INDEMNIFICATION**

To the full extent permitted by law, the Consultant shall indemnify, defend and hold the City and its elected officials, officers, agents and employees harmless from and against all claims, demands, losses and expenses, including but not limited to attorneys' reasonable fees, arising out of or resulting in whole or in part from any negligent act or omission, and/or from any failure to perform the Consultant's duties under this Agreement, attributable to the Consultant, its employees, agents, sub-consultants and any other person or entity for whose conduct the Consultant may be liable under Ohio law.

### **SECTION 11. RECORDS AND RETENTION**

Consultant shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures related in whole or part to the performance of this Agreement. Such costs and expenditures for the professional services provided under this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and other evidence (collectively, "records"). All records shall be clearly identified and readily accessible. At any time during normal business hours and as often as the City may request, Consultant shall make available to the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees, all of its records related to this Agreement and performance of the professional services. Consultant shall also permit the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies and any of their designees to audit, examine, and make excerpts or transcripts from such records and to have audits made of all contract(s), invoices(s), materials, payrolls, personal records, conditions of employment and other data pertaining in whole or in part to matters covered by this Agreement.

All records relating to the professional services provided under this Agreement, including any and all supporting documentation for invoices submitted to the City, shall be retained by Consultant and made available for review by the City, the Auditor of the State of Ohio, the federal government and any of its departments and agencies, and any of their designees for a minimum of four (4) years after the termination or expiration of this Agreement.

Notwithstanding the foregoing, if there is litigation, claims, audits, negotiations or other actions that involve any of the records pertaining to this Agreement, which commences prior to the expiration of the four-year period, Consultant shall retain such records until completion of the actions and resolution of all issues or the expiration of the three-year period, whichever occurs later.

### **SECTION 12. MISCELLANEOUS**

- A. Non-Discrimination. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, ancestry, national origin, place of birth, age, marital status or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off determination, rates of pay, or other forms of compensation, or selection for training, including apprenticeship.

## EXHIBIT A SAMPLE AGREEMENT

It is expressly agreed and understood that Section 35.14 of the Revised Code of General Ordinances (RCGO) of the City constitutes a material condition of this Agreement as fully and as if specifically written herein and that failure to comply therewith shall constitute a breach thereof entitling City to terminate this Agreement at its option.

- B. Remedies. The remedies provided in this Agreement are cumulative. Delay or forbearance in the enforcement of any right under this Agreement shall not be deemed a waiver of, or estoppel against the exercise of, such right.
- C. Entire Agreement. This Agreement, together with all Exhibits referred to herein, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations and Agreements, whether oral or written.
- D. Independent Contractor Status. By executing this Agreement for professional services, the Consultant acknowledges and agrees that it will be providing services to the City as an “independent contractor”. As an independent contractor for the City, the Consultant shall be prohibited from representing or allowing others to construe the parties’ relationship in a manner inconsistent with this subsection. The Consultant shall have no authority to assume or create any obligation on behalf of, or in the name of the City, without the express prior written approval of a duly authorized representative of the City.

The Consultant, its employees and any approved sub-consultants performing the duties and responsibilities under this Agreement are not City employees, and therefore, such persons shall not be entitled to, nor will they make a claim for, any of the emoluments of employment with the City. Further, Consultant shall be responsible to withhold and pay, or cause such agents and sub-consultants to withhold and pay, all applicable local, state and federal taxes.

- E. Amendment. This Agreement may be amended by mutual agreement between the City and the Consultant. Any such amendment shall be reduced to a writing, which makes specific reference to this Agreement, approved by the Director of the Department of Aviation or his designee, executed by a duly authorized representative of each party and, if applicable or required, approved by the Commission of the City, Ohio.
- F. Ohio Revised Code § 3517.13 Compliance. The Consultant affirms and certifies that it complies with Ohio Revised Code § 3517.13 limiting political contributions.
- G. Applicable Law and Venue. This Agreement shall be governed and construed under the laws of the State of Ohio. By execution hereof, the Consultant irrevocably submits to the original jurisdiction of the courts located within the County of Montgomery, State of Ohio, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement.
- H. Notice. Any notice required under this Agreement shall be deemed to have been given on the date actually received or forty-eight (48) hours after having been deposited in the United States mail, postage prepaid, registered or certified, and addressed to the parties as set forth

**EXHIBIT A**  
**SAMPLE AGREEMENT**

below, whichever occurs earlier. Either party may change its address from time to time by written notice given in this manner.

If to the City:

Director of Aviation, City, Ohio  
James M. Cox Dayton International Airport  
3600 Terminal Drive, Suite 300  
Vandalia, OH 45377

If to Consultant:

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**EXHIBIT A  
SAMPLE AGREEMENT**

**IN WITNESS WHEREOF**, the City and the Consultant, each by a duly authorized representative, have executed this Agreement as of the date first set forth above.

**NAME OF COMPANY**

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

Its: \_\_\_\_\_

**CITY OF DAYTON, OHIO**

\_\_\_\_\_  
City Manager

**APPROVED AS TO FORM  
AND CORRECTNESS:**

\_\_\_\_\_  
City Attorney

**APPROVED BY THE COMMISSION  
OF THE CITY OF DAYTON, OHIO:**

\_\_\_\_\_, 20\_\_

Min./Bk. \_\_\_\_\_ Pg. \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Commission

**EXHIBIT A  
SAMPLE AGREEMENT**

**EXHIBIT A**

**SCOPE OF SERVICES**

1. Assistance with reviewing and finalizing a Request for Proposals (“RFP”) for a parking operator
2. On-site assistance during pre-proposal meeting(s)
3. Review and develop responses to any questions concerning the RFP
4. Assisting with the development of a recommendation for a parking operator
5. Management contract review and comment
6. Analysis of existing parking rate structure and recommendations
7. Other related tasks

**CITY OF DAYTON  
HUMAN RELATIONS COUNCIL  
AFFIRMATIVE ACTION ASSURANCE**

Introduction: A compliance review will be conducted on a yearly basis for all firms having an approved Affirmative Action Assurance form. Only those firms approved by the Human Relations Council may be awarded contracts involving expenditures of \$500 or more.

Please type or print legibly. FEDERAL ID # \_\_\_\_\_

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_ E-Mail \_\_\_\_\_

Type of Business - Check One

Agriculture, Forestry  
and Fishing

Mining

Construction

Consulting

Retail

Finance, Insurance and  
Real Estate

Service and Repair Business

Research and Development

Manufacturing

Transportation, Communication  
and other Public Utilities

Wholesale Trade

List Specific Product(s) \_\_\_\_\_

1. Does your firm have a written equal employment opportunity policy? If so, attach copy.

Yes

No

2. If not, would you accept the enclosed sample as your policy? (see sample)

Yes

No

3. Is your firm 51% or more owned by minority persons?

Yes

No

4. Is your firm 51% or more owned by female persons?

Yes

No

In accord with the Revised Code of General Ordinances 35.14, 35.15 and 35.16, this company hereby agrees that a program of affirmative action will be maintained to implement its nondiscrimination policy in doing business with the City of Dayton:

\_\_\_\_\_  
SIGNATURE (PLEASE PRINT NAME NEXT TO SIGNATURE)

\_\_\_\_\_  
TITLE (Authorized Person Only)

\_\_\_\_\_  
DATE

This form must be completed on both sides in order for your firm to be added to the City of Dayton's approved list of bidders.

**DO NOT WRITE BELOW THIS LINE**

APPROVED \_\_\_\_\_

SIC

DISAPPROVED \_\_\_\_\_

COMMENTS:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
HUMAN RELATION COUNCIL

**PLEASE RETURN TO:  
CITY OF DAYTON  
Human Relations Council  
371 W. Second St., Ste. 100  
Dayton, OH 45402  
(937) 333-1413  
(937) 222-4589 Fax**



CITY OF DAYTON  
HUMAN RELATIONS COUNCIL  
AFFIRMATIVE ACTION GUIDELINES

I. Policy

That the company will have an equal employment opportunity policy. This policy should initiate or reaffirm a clear, explicit merit employment policy on hiring, upgrading, recruiting, etc.

II. Dissemination of Policy Within Company

That the company will maintain or initiate appropriate steps to ensure that all employees understand the company's obligation under this policy and specifically instruct supervisory personnel in their responsibilities for carrying out this policy.

III. Affirmative Action Program

That the company will maintain or initiate an Affirmative Action Program designed to ensure that there will be no discrimination on the basis of race, color, religion, sex, national origin, marital status, age or disability, etc.

IV. Responsibility for Program

That the company will designate one of its officials as equal opportunity compliance officer for executing this agreement, including liaison with the staff of the Human Relations Council.

V. Hiring Practices

That the company will maintain or initiate hiring practices designated to achieve a reasonable representation of minority and female employees at every job level.

VI. Testing

That the company will review its testing procedures to see that they are kept up to date and reflect standard and acceptable testing practices.

VII. Recruitment Sources

That the company will specifically notify all sources of recruitment, employment agencies, placement bureaus, colleges, universities, labor unions, etc., that it does not discriminate on the basis of race, religion, color, sex, national origin, marital status, age or disability, etc.; that the company actively solicits minority group applicants and that it will discontinue the use of sources where it appears that direct or indirect discriminatory practices exist. (Please include copies of such notifications.)

VIII. Changes in Employee Status

That the company will review all procedures relating to transfer, upgrading, downgrading and lay-off, to ensure that all such actions are taken without regard to race, religion, color, sex, national origin, marital status, age or disability, etc.

IX. Training

That the company will cooperate with available resources in utilizing training programs designed to admit minority group members and females to regular employment with the company.

X. Suppliers and Subcontractors

That the company shall obtain written assurance that these requirements have been read and they fully agree to this Affirmative Action Program, from all suppliers and/or subcontractors involving the expenditure of \$500.00 or more. Further, those suppliers and/or subcontractors agree to become a part of the full implementation of said program.

Each approved firm must have a written policy statement regarding equal employment opportunity. A sample policy statement is as follows—

“This company, its subsidiaries, and its divisions shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, marital status, age or disability, and shall take such affirmative action as necessary to ensure that applicants are employed and employees are treated equally during employment without regard to race, color, religion, sex, national origin, marital status, age or disability.”

**Implementation of Equal Employment Opportunity Policy.** The equal employment opportunity policy is implemented through an Affirmative Action Program. The program should be designed to hire qualified minorities and females in all of the various job categories when needed, and the firm should establish specific goals to increase the number of minorities and females in the various job categories through hiring or promotion.

The City of Dayton has approved some goals and timetables to serve as guidelines for firms with whom they do business. All firms doing business with the City should employ a representative number of minorities and females in all job classifications. These firms should also establish specific goals and timetables for achieving their goals. Such goals and timetables shall be a part of a firm’s Affirmative Action Program and shall be maintained on a year-by-year basis. If a firm cannot meet the established goals and timetables, it will be evaluated on its “good faith” effort; that is, whether the Affirmative Action Program is being followed in fact and whether every attempt is being made to attain the goals according to the timetables.

Another factor supporting the “good faith” effort is whether the firm has conducted an analysis of all major job categories at the facility to determine if minorities and females are currently being underutilized in any one or more job categories (“Underutilization” means having fewer minorities and females in a particular job category than would reasonably be expected by their availability.) Consideration of “good faith” effort shall also be given to the following factors—

1. The minority and female population of the labor area.
2. The size of the minority and female unemployment force in the labor area.
3. The percentage of the minority and female work force as compared with the total work force in the immediate labor area.
4. The general availability of minorities and females having requisite skills in the immediate labor area.
5. The availability of minorities and females having requisite skills in an area in which the facility can reasonably recruit.
6. The availability of promotable minority and female employees within the facility’s organization.
7. The anticipated expansion, contraction and turnover of and in the work force.
8. The existence of training institutions capable of training minorities and females in the requisite skills.
9. The degree of training which the firm is reasonably able to undertake as a means of making all job classifications available to minorities and females.
10. The use of recruitment sources where minorities and females can be secured.

Every effort should be directed to increase materially the number of minorities and females at all levels and in all segments of the work force of the company with particular emphasis on segments of the work force where few, if any, minority and female persons are employed. Special attention should be given to the categories of officials and managers, professionals, technicians, sales workers, office and clerical, and skilled craftsmen.