

REQUEST

FOR

QUALIFICATIONS

PUBLIC RELATIONS AND MARKETING SERVICES

RFQ NUMBER 24-0016

DUE DATE:

AUGUST 1, 2024

TRANSMITTAL LETTER

July 2, 2024

Dear Respondent,

The Memphis-Shelby County Airport Authority (Authority) is seeking a qualified Respondent to provide Public Relations and Marketing Services for the Authority. This Request for Qualifications (RFQ) is under the direction of the Marketing Department.

The Procurement Department is responsible for coordinating all communications between the Authority and Respondents. The RFQ limits the manner, method, and type of communications that the Authority and Respondents may have once an RFQ process is initiated to ensure that the process is fair and impartial. Please review the RFQ carefully and abide by all required deadlines, dates, and terms.

All Respondents are hereby notified that all updates, addenda and additional information, if any, shall be posted to the Authority website www.flymemphis.com, and Respondents are responsible for checking the Authority website up to the time of the RFQ submission deadline.

The Authority reserves the right to reject any or all responses to this RFQ in whole or in part; to waive any informalities, technicalities, or omissions therein; and/or to cancel this process at any time. The Authority also reserves the right to reject any response when a parent, subsidiary, affiliate, or predecessor in interest of the Respondent has pending litigation or claims with the Authority, or if any response includes a proposed subcontractor or supplier that has pending litigation or claims with the Authority, if the Authority determines, in its sole discretion, such litigation or claims may adversely affect the ability of the parties to work efficiently and effectively under this RFQ, or for any other reason as determined by the Authority. Any such responses will be returned to the Respondent. All Respondents must use forms provided by the Authority.

No Respondent may withdraw an opened Response without the Authority's consent.

The Authority shall give a preference to businesses located in or near the County of Shelby, State of Tennessee in awarding contracts and making purchases whenever the application of such a preference is reasonable in light of the valuation points/dollar-value of the proposal/bid received in relation to such valuation points/expenditures and pursuant to the terms and conditions that are outlined in the adopted policy as amended.

Should you have questions regarding this RFQ, the RFQ sets forth a process by which you may submit your questions and receive answers. Thank you for your participation in this process. We look forward to receiving your response.

Sincerely,

Kenneth Parrish, ACE
Director of Procurement
Memphis-Shelby County Airport Authority

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1 BACKGROUND

The Authority owns and operates Memphis International Airport (MEM), Charles Baker Airport and General DeWitt Spain Airport. Memphis International Airport is located in Shelby County about 13 miles southeast of downtown Memphis. Memphis International Airport is the principal air carrier airport serving west Tennessee, north Mississippi, southeast Missouri, and east Arkansas. Memphis International Airport is also the principal hub for FedEx, making MEM the world’s second busiest cargo airport and the single largest economic engine in the Mid-South.

The Airport is primarily an origin and destination (O&D) airport. MEM served a record 4.8 million passengers in 2023, an increase of 10% compared to 2022.

The Airport is located on 4,640 acres of land in the County and includes a terminal complex of approximately one million square feet, and four other buildings containing approximately 100,000 square feet, which are used by air carriers and all-cargo carriers as transfer facilities for cargo. These buildings are adjacent to the terminal complex and are separate from FedEx facilities that contain approximately 3.5 million square feet and occupy approximately 518 acres.

2 REQUEST FOR QUALIFICATIONS TIMELINE, COMMUNICATIONS AND PROCESS

2.1 RFQ Timeline

While this timeline sets forth important dates for this Request for Qualifications (RFQ) process, the entire RFQ should be consulted for additional information and requirements concerning these deadlines. The schedule below is subject to change without liability to the Authority.

All times listed are Memphis, Tennessee Local Time (CST).

| | |
|--------------------|--|
| July 2, 2024 | Publication of Legal Notice |
| July 2, 2024 | Release of RFQ Documents |
| July 15, 2024 | Questions Due from Respondents by 4:30 p.m. |
| July 22, 2024 | Questions and Answers posted on Authority website by 4:30 p.m. |
| August 1, 2024 | Response Due to Authority by 2:00 p.m. |
| August 28, 2024 | Oral Interviews with Selected Respondents |
| September 19, 2024 | Anticipated Board Approval of the Award of Contract |
| October 1, 2024 | Anticipated Contract Commencement Date |

2.2 Communication with the Authority during this RFQ

The Authority has designated Kenneth Parrish, Director of Procurement, to be responsible for coordinating communications between the Authority and Respondents. Respondents should direct all communications the Procurement Department via email at Bids@flymemphis.com. Respondents are further advised that any communication, either verbally or in writing, direct or indirect, subsequent to the date of issuance of the RFQ by a prospective Respondent or any of its owners, officers, employees, or agents, or any individual or entity acting on its behalf, with any member of the Board of Commissioners or any officer or employee of the Authority, except as provided in this section, is **strictly prohibited** and may be cause for disqualification of the prospective Respondent. The only exception to this requirement is for communications between prospective Respondents and the Authority's in-house and outside legal counsel to further client communications on pending matters that are not related to this RFQ. This restriction on communication will govern until the RFQ process has been completed and a contract has been fully executed for these services. Please note that the Authority prefers all communication to be in writing.

2.3 Addenda

All updates, addenda and other information, if any, shall be posted to the Authority's website, www.flymemphis.com. Respondents are responsible for checking the Authority's website up to the time of the RFQ submission deadline.

2.4 Questions Regarding RFQ

Questions regarding this RFQ must be submitted in written form via email to Kenneth Parrish at Bids@flymemphis.com. Questions will be accepted until 4:30 PM, July 15, 2024. Answers will be provided by 4:30 p.m., July 22, 2024. Answers will only be posted on the website, www.flymemphis.com.

2.5 RFQ and Response Submissions

A copy of this RFQ will be distributed to prospective Respondents. This RFQ also will be available on the Authority's website, www.flymemphis.com.

Respondents shall prepare responses in compliance with all the instructions outlined in this RFQ, providing the requested information and returning the completed document to the Authority by the submission deadline.

All responses shall be sealed and clearly marked with the Respondent's name and address and the words "Public Relations and Marketing Services" and "RFQ Number 24-0016" on the outside of the envelope or container. The Respondent shall allow sufficient time to ensure receipt of the response. It is the sole responsibility of the Respondent to have the response delivered to the Authority at the address below before the closing hour and date given in this RFQ.

Respondents should note that FedEx First Overnight® and UPS Next Day Air Early AM® shipments typically arrive before normal Authority business hours of 7:00 AM – 3:30 PM

Local Time. Should you choose to ship by one of these methods, and your shipment arrives before the Authority's business hours, FedEx or UPS will not deliver the package until the following day. Any response tendered for delivery to the Authority must be in the Authority's possession prior to the opening date and time. Any delivery received after the submission deadline will be accepted and returned to the Bidder unopened.

Responses must be received at the address below **before 2:00 PM Local Time on August 1, 2024:**

Procurement Department
Memphis-Shelby County Airport Authority
4150 Louis Carruthers Drive
Memphis, Tennessee 38118
Attn: Request For Qualifications, Public Relations and Marketing Services,
RFQ Number 24-0016

A listing of all proposers responding to Requests for Proposals and Requests for Qualifications will be posted to the Authority's website one (1) hour after the response deadline. Responses to Requests for Proposals and Requests for Qualifications will not be publicly opened.

The Authority reserves the right to extend the opening date or time provided no RFQ responses have been previously opened. Late responses will NOT be considered and will be returned to the Respondent unopened.

2.6 Rejection of Responses / Cancellation of RFQ

The Authority reserves the right to reject any or all responses to this RFQ, including but not limited to, any response that contains exceptions to the minimum requirements and/or specifications or fails to meet the minimum requirements and/or specifications in whole or in part. Responses containing terms and conditions other than those specified herein may be considered nonresponsive. Partial or incomplete responses may be rejected. The Authority reserves the right to reject responses or penalize Respondents who do not follow the requirements of the RFQ and, likewise, to waive any informalities, technicalities, or omissions therein. Responses having any erasures or corrections shall be initialed in ink by the Respondent. Unsigned responses will be considered nonresponsive.

The Authority also reserves the right to reject any response when a parent, subsidiary, affiliate, or predecessor in interest of the Respondent has pending litigation or claims with the Authority, or if any response includes a proposed subcontractor or supplier that has pending litigation or claims with the Authority, if the Authority determines, in its sole discretion, such litigation or claims may adversely affect the ability of the parties to work efficiently and effectively under any contract resulting from this RFQ, or for any other reason as determined by the Authority. The Authority further reserves the right to cancel this RFQ process at any time.

2.7 RFQ to Bind Respondent

The response must contain the signature of a duly authorized officer of the Respondent with the legal right to bind the Respondent. All submitted responses shall be binding for a period of one hundred twenty (120) days from the response submission deadline.

2.8 Sole Responsibility

The successful Respondent, if any, shall assume responsibility for meeting all requirements agreed to in the response to this RFQ.

2.9 Sole Contact

The Authority will consider the selected Respondent to be the sole point of contact with regard to contractual matters and the payment of any and all charges resulting from Contract obligations. Upon Contract award, the selected Respondent will be directly responsible for all of its subcontractors, if any, and the selected Respondent shall designate a project manager who will serve as the point of contact for the Authority for billing, additions, deletions, or any other requests or inquiries.

2.10 Response Modification or Withdrawal

Responses may be modified or withdrawn in writing prior to the deadline for RFQ submission. After the submission deadline, no modifications will be accepted, and responses may only be withdrawn with the Authority's consent.

2.11 Response Costs

All costs incurred in preparing the response to this RFQ, participating in this process and negotiating with the Authority, whether or not a contract is awarded, shall be solely the responsibility of the Respondent. All materials and documents submitted by Respondents in response to this RFQ become the property of the Authority and shall not be returned to the Respondents.

2.12 Protest

Any protest must be filed in writing and received by the Authority within seven (7) calendar days of the date of the occurrence of the event that is the subject of the protest, *e.g.*, the opening of responses, the award, or a determination that a respondent is not responsible or that a response is not responsive.

Any protest must be delivered to the Authority during the business hours of 7:00 AM – 3:30 PM Local Time in order to be deemed to be received by the Authority as required under this Section. A protest must be submitted in hard copy and addressed as follows:

Memphis-Shelby County Airport Authority
Attention: Director of Procurement
4150 Louis Carruthers Drive
Memphis, Tennessee 38118

Any protest sent by telegraphic or facsimile transmission or by email or other electronic means will not meet the filing requirements set forth herein and will not be deemed to be received by the Authority.

No objections with regard to the application, meaning, or interpretation of the specifications contained herein will be considered after the opening of the subject RFQ.

3 RESPONDENT ASSURANCES

By submitting the RFQ response and participating in this process, the Respondent asserts that he/she has read, understands and agrees to the terms and conditions contained in this RFQ document and has full authority to submit the written and verbal responses on behalf of the entity for whom they are acting and that the information submitted to the Authority in the response is true, accurate and complete to the fullest extent possible and to the best of his/her knowledge and abilities. The Respondent further certifies:

3.1 *No Hidden Parties*

Response is genuine and that no other person, firm, or corporation than the one herein named has any interest herein or in the Contract proposed to be taken; that it is made without any connection with any person, firm, or corporation making a response for the same work; and that it is in all respects fair as to each item proposed and to the response as a whole.

3.2 *No Collusion in Any Form*

Respondent has not sought by collusion or fraud to obtain any advantage over any other Respondent or over the Authority.

3.3 *No Inducement to Submit False Proposals*

Respondent has not directly or indirectly induced or solicited any other Respondent to submit a false or sham proposal.

3.4 *No Inducement to Refrain from Response*

Respondent has not induced or solicited any other person, firm, or corporation to refrain from submitting a proposal.

3.5 *No Financial Interest*

No Authority employee or member of the Board of Commissioners, Memphis City Council, or Shelby County Commission is directly or indirectly interested herein, or in the furnishing of the service or doing the work to which it relates, or in any portion thereof. Respondent asserts that no Authority employee or member of the Board of Commissioners, Memphis City Council, or Shelby County Commission shall receive or has received any financial benefit arising out of this RFQ or its Contract, if awarded, either directly or indirectly. Further, any fees paid to any person or entity by Respondent for

assistance in obtaining the Contract with the Authority must be fully disclosed to the Authority in writing.

3.6 No Contact

Respondent has not had any communications, either verbally or in writing, directly or indirectly, subsequent to the date of issuance of the RFQ by any of its owners, officers, employees, or agents, or any individual or entity acting on its behalf, with any member of the Board of Commissioners or any officer or employee of the Authority. Respondent understands and agrees any communication except as provided in Section 2.2 of the RFQ is strictly prohibited and may be cause for disqualification of the prospective Respondent.

3.7 Addenda

Respondent has reviewed and agrees to any and all Addenda, if applicable, posted by the Authority on its website, www.flymemphis.com, in regard to this RFQ. The information contained in all Addenda that may be issued shall become a part of this RFQ and, to the extent specified, shall amend and supersede the similar information in the original RFQ document. All other terms, provisions, and conditions of the RFQ shall remain unchanged.

4 STATE OF TENNESSEE PURCHASING PROVISIONS

Iran Divestment. By submission of a response, each bidder and each person signing on behalf of any respondent certifies, and in the case of a joint response each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each respondent is not on the list [of persons engaging in investment activities in Iran] created pursuant to T.C.A. § 12-12-106.

No Boycott of Israel. Pursuant to T.C.A. § 12-4-119, by submission of a response, each respondent certifies that their company is not currently engaged in and will not for the duration of services herein engage in, a boycott of Israel.

5 BUY LOCAL INITIATIVES

The Authority shall give a preference to businesses with their principal place of business in the County of Shelby, State of Tennessee in awarding contracts and making purchases whenever the application of such a preference is reasonable in light of the valuation points of the statement that is received in relation to such valuation points and pursuant to the terms and conditions that are outlined in the adopted policy as amended. If applicable, the Authority may also give a preference to businesses operating in the County of Shelby, State of Tennessee, or to businesses with their principal place of business in the Memphis, TN-MS-AR Metropolitan Statistical Area.

6 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

6.1 Overview

The Authority operates a federal Disadvantaged Business Enterprise (DBE) Program¹ to ensure full and fair opportunities in Authority contracting for businesses owned by socially and economically disadvantaged individuals. Only firms that are certified consistent with 49 CFR Part 26 and the Tennessee Department of Transportation Unified Certification Program, as identified below, will be certified as a Disadvantaged Business Enterprise.

This section, entitled “Disadvantaged Business Enterprise Requirements” is provided to assist Respondents. The information contained in this section is not intended to supplement or amend any federal regulation. All Respondents are responsible for compliance with all applicable federal and Authority rules and requirements.

6.2 Disadvantaged Business Enterprise (DBE) Required Forms

The following documents must be submitted with your response to this solicitation: It is a requirement that all Respondents providing services for the Authority take all reasonable steps to ensure that DBEs have a full and fair opportunity to compete for and perform contract work without discrimination based on, race, sex, color, national origin. To satisfy this requirement, Respondents will be expected to timely submit documentation as identified below and throughout the contract period if selected and cooperate with the Authority. Failure to timely submit requested documentation, cooperate with the Authority or answer inquiries truthfully will be considered a material contract breach and may result in termination. The following documents must be submitted with your response to this solicitation:

6.2.1 DBE Assurance Statement/Letter of Intent

The Respondent must submit an Assurance Statement for each DBE whose participation the Respondent is counting toward the goal. This may include first, second, third and so on tier subcontractors, and the Respondent and all subcontractors between the Respondent and the DBE should sign the Assurance Statement. The Respondent must submit the form provided in Section 18.1 below on Company Letterhead.

For each Assurance Statement, the Respondent must also provide the written quote or proposal from the DBE or other communication from the DBE upon which the scope of work and dollar value contained in your Assurance Statement is based (“quote/proposal”).

All portions of the Assurance Statement must be completed (including the description of work, the estimated contract amount, and the estimated

¹ The Authority also operates a non-federal Business Diversity Development Program (BDDP). The Authority administers the BDDP Program according to federal regulations, primarily 49 CFR Part 26.

dollar value of DBE participation for counting and goal purposes) before the Assurance Statement is signed by either the DBE or the Respondent. If the DBEs, and if applicable to the 2nd/3rd Tier Subcontractor's, signature(s) can be obtained on the completed Assurance Statement before the bid submission deadline, the Respondent should submit the fully completed and fully signed Assurance Statement. If the Respondent submits an Assurance Statement that is completed except for the DBEs, and if applicable, the 2nd/3rd Tier Subcontractor's signature(s) and a quote/proposal from the DBE as described above, the Respondent will be given 24 hours from the bid submission deadline to submit the completed Assurance Statement signed by the DBE and, if applicable, the 2nd/3rd Tier Subcontractor. Each Assurance Statement submitted during this 24-hour window must conform to the previously submitted Assurance Statement except for DBE signature. These signed Assurance Statements must be submitted pursuant to the same location and time restrictions that applied to the solicitation response.

The Authority reserves the right to ask questions of the Respondent, investigate and require additional information as it determines necessary in its sole discretion to ensure that the regulations and the Authority's rules are followed as it relates to DBE participation.

6.2.2 Respondent DBE Goals Accomplishment Statement

The form provided in Section 17.2 must be submitted on Respondent's company letterhead.

6.2.3 Information on All Firms Providing Responses

The form provided in Section 17.3 must be completed by Respondent.

6.3 *Disadvantaged Business Enterprise (DBE) Voluntary Form*

We ask, but do not require, that each Respondent submit the following information with the response to this solicitation:

6.3.1 Voluntary Disclosure of Respondent Data

If submitted, the form provided in Section 17.4 must be completed by Respondent.

6.4 *Definition of Socially and Economically Disadvantaged*

The rules that govern eligibility and certification of DBE are found generally at 49 CFR Part 26.5 and 26.61 through 26.73. These rules define a DBE as a for-profit, small business concern which is at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals. In the case of any publicly owned business, at least fifty-one percent (51%) of the stock must be owned by one or more socially and economically disadvantaged individuals. In addition, the personal net

worth of the socially and economically disadvantaged owners of the small business concern must not exceed two million forty-seven thousand dollars (\$2,047,000).

As defined by 49 CFR, Part 26.5, a socially and economically disadvantaged individual is any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

a. Black Americans which include persons having origins in any of the Black racial groups of Africa;

b. Hispanic Americans which include persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

c. Native Americans which include persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

d. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U. S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

e. Subcontinent Asian Americans which include persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

f. Women;

g. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

6.5 DBE Liaison Officer

For questions or information related to the DBE program, contact ReGina Armstrong, the Senior Manager of Business Diversity Development at (901) 922-0255.

6.6 DBE Certification

The Authority is a certifying member of the Tennessee Department of Transportation Unified Certification Program (TNUCP) is a cooperative of entities that are recipients of federal funds that have developed a “one-stop shop” for certification throughout the

State of Tennessee. The Authority compiles a directory of firms who have met the TNUCP's selection criteria for eligibility as a DBE, including 49 CFR Part 26. You can view the directory of certified firms at www.flymemphis.com or at www.tdot.tn.gov. In order to be considered as meeting the DBE goal for this Contract, each business wishing to participate as a DBE or a joint venture DBE, must be certified by a TNUCP in accordance with 49 CFR Part 26. Out of state firms may be granted reciprocity by a TNCUP certifying member with an existing certification from their home state. Unless a firm is certified by a TNUCP certifying member by the time the responses to this solicitation are due, its participation will not be considered as meeting the DBE goal in the solicitation. Each business wishing to participate as a DBE or a joint venture DBE must be certified by the time the responses are due.

6.7 Identification of Contract Goal and Requirements

For this Contract, the DBE goal is established as 23%. To be responsive, a Respondent must either meet the goal or make good faith efforts to do so. Good faith efforts are defined in Appendix A to 49 CFR Part 26 and discussed in the following section.

If a Respondent's DBE Assurance Statement proposes a DBE percentage less than the established goal, the Respondent must, at the time of making the response, submit appropriate documentation showing good faith efforts to meet the established goal. The Authority reserves the right to request additional documentation or information from Respondent regarding its DBE Assurance Statement and if applicable, any good faith efforts documentation. If the Authority enters a contract based on the Respondent's DBE Goals Accomplishment Statement and documentation, the DBE percentage accepted by the Authority will become a contractual requirement. If the Respondent's DBE Assurance Statement proposes to attain a DBE percentage higher than the established goal, the established goal will remain the contractual requirement.

Respondents shall not contract with, demand, require or coerce a DBE into any agreement or into the signing of any Assurance Statement or any other document which prohibits the DBE from providing subcontracting quotations or doing business with other Respondents. The DBE shall be free to provide their services to any number of Respondents. To ensure that all obligations under sub-contracts awarded to a DBE are met, the Authority will review the agreement between the Respondent and DBE, and Respondent's DBE involvement efforts during the performance of the Contract.

6.8 Good Faith Efforts Statement and Requirements

Respondents must either meet the DBE goal or make good faith efforts to meet the goal. Respondents who do not meet the goal must establish adequate good faith efforts by submitting documentation along with the Respondent DBE Goals Accomplishment Statement. This statement should show that they took all necessary and reasonable steps to achieve the DBE goal, which could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful. The Respondent's DBE Goals Accomplishment Statement and supporting documents should conform to the good faith requirements outlined in Appendix A of 49 CFR Part 26.

The following is a list of types of actions that may be part of a Respondent's efforts to obtain DBE participation and may be included in the Respondent DBE Goals Accomplishment Statement and documentation. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:

- a. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified as a DBE who have the capability to perform the work of the Contract. The Respondent must solicit this interest within sufficient time to allow the DBE to respond to the solicitation and take appropriate steps to follow-up on initial solicitations to determine interest.
- b. Selecting portions of the work to be performed by a DBE to increase the likelihood that the goals of the DBE will be achieved.
- c. Providing any interested DBE with adequate information about the plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation.
- d. Negotiating in good faith with any interested DBE. It is the Respondent's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, to facilitate DBE participation.
- e. Not rejecting any DBE as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- f. Making efforts to assist any interested DBE in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- g. Making efforts to assist any interested DBE in obtaining necessary equipment, supplies, materials, or related assistance or services.
- h. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to aid in the recruitment and placement of any DBE.

For each DBE listed as a regular dealer or distributor the Authority will make a preliminary counting determination to assess the DBE's eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in § 26.55(e)(2)(iv)(A), (B), and (C) and (e)(3) under the contract at issue. The Authority's preliminary determination shall be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. Where the DBE supplier does not affirm that its participation will meet the specific requirements of either a regular dealer or distributor, the Authority is required to make appropriate adjustments in counting such participation toward the bidder's

good faith efforts to meet the contract goal. The bidder is responsible for verifying that the information provided by the DBE supplier is consistent with the counting of such participation toward the contract goal.

If a Respondent has not met the DBE goal and submits Respondent DBE Goals Accomplishment Statement and documentation, the Respondent should summarize in detail all good faith efforts taken by the Respondent, including, but not limited to, the activities listed above in A through I, and supporting documentation. While the Respondent should submit documentation to support its good faith efforts at the time of the Response submission, the Authority may ask questions of Respondent or request additional documentation after review of Respondent's DBE Goals Accomplishment Statement and any documentation. In submitting the information required under this section, Respondent understands and agrees that the determination of whether Respondent has met the DBE goal or established good faith efforts to meet the goal is a judgment call that the Authority will make.

6.9 Administrative Reconsideration

Within five (5) business days of being informed by the Authority that it is not responsive because it has not documented sufficient good faith efforts, a Respondent may request administrative reconsideration. Respondent should make this request in writing to the following reconsideration official: Terry Blue, President and CEO, Memphis Shelby County Airport Authority, 2491 Winchester Road, Suite 113, Memphis, Tennessee 38116, (901) 922-8000, tblue@flymemphis.com. The reconsideration official will not have played any role in the original determination that the Respondent did not document sufficient good faith efforts.

As part of this reconsideration, the Respondent will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. The Authority will send the Respondent a written decision on reconsideration, explaining the basis for finding that the Respondent did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

6.10 Counting DBE Participation

DBE participation shall be counted toward meeting the DBE goal as outlined in 49 CFR Part 26, specifically 26.55. When the Respondent completes an Assurance Statement, the Respondent must include not only the total value of the work to be performed and/or the materials to be supplied by the DBE but also the total amount of DBE participation that should be counted toward meeting the goal. If you have any questions about counting, we strongly urge you to consult 49 CFR Part 26. The following may be helpful to you in counting DBE participation and in determining which sections of Part 26.55 you need to review in more detail:

- a. When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.
- 1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
 - 2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
 - a. When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.
 - 4) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
 - 5) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 6) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
- b. When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

- c. Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. For the definition and explanation of a commercially useful function see 49 CFR Part 26.55(c).
- d. To determine whether a DBE trucking company is performing a commercially useful function see 49 CFR Part 26.55(d).
- e. Count expenditures with DBEs for materials or supplies toward DBE goals as provided in 49 CFR Part 26.55(e). Please note that materials or supplies obtained from a DBE manufacturer are counted differently toward DBE goals than a DBE regular dealer. It is imperative that the bidder consult federal regulations for counting differences.
- f. If a firm is not currently certified as a DBE in accordance with the standards of 49 CFR Part 26 Subpart D at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in § 26.87(i).
- g. Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.
- h. Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

6.11 Sanctions for Non-Compliance²

In case of the Respondent's non-compliance with DBE requirements as applicable, including, but not limited to, documentation, cooperation, and truthfulness, the Authority shall impose such Contract sanctions as it may determine to be appropriate. This may include but is not limited to:

- a. Withholding of payments to the Respondent under the Contract until the Respondent complies; and/or
- b. Cancellation, termination, or suspension of the Contract, in whole or in part; and/or
- c. Assessing sanctions; and/or
- d. Payment by the Respondent to the Authority of an amount equal to the difference in the DBE dollar value contracted for and the dollar value achieved in documented DBE participation, which dollar value shall be considered liquidated damages if the Authority determines that Respondent failed to make good faith efforts in meeting the Contract's DBE goal.

² The Authority applies Sanctions for Non-Compliance to its BDDP.

6.12 Contract Assurance (49 CFR Part 26.13)

The successful Respondent, any successful subrecipient or successful subcontractor shall not discriminate based on race, color, national origin, or sex in the performance of this prime contract. The successful Respondent shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the successful Respondent 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, which may include, but is not limited to:

- a. Withholding monthly progress payments;
- b. Assessing sanctions;
- c. Liquidated damages; and/or
- d. Disqualifying the Contractor from future bidding as non-responsible.

6.13 Prompt Payment / Retainage

The successful Respondent agrees to pay each subcontractor under this prime contract for invoices submitted or normal progress payments for work completed satisfactorily or supplies provided satisfactorily pursuant to its contract and no later than fifteen (15) days from the receipt of each payment the successful Respondent receives from MSCAA. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the MSCAA. When MSCAA has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the MSCAA. This clause applies to both DBE and non-DBE subcontractors.

Retainage will not be withheld on this project. No retainage will be withheld by MSCAA from progress payments due the successful Respondent. Retainage by the successful Respondent or subcontractors is prohibited, and no retainage will be held by the successful Respondent from progress payments due to subcontractors.

6.14 Termination of DBE Subcontracts

The successful Respondent must not terminate a DBE subcontractor listed in response to this solicitation (or an approved substitute DBE firm) without prior written consent of Authority. This includes, but is not limited to, instances in which the successful Respondent seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The successful Respondent shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent as provided in 49 CFR § 26.53(f). Unless prior written consent is provided pursuant to 49 CFR § 26.53(f), the successful Respondent shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Authority may provide such written consent only if the Authority agrees, for reasons stated in the concurrence document, that the successful Respondent has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR § 26.53.

Before transmitting to the Authority its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Authority, of its intent to request to terminate and/or substitute, and the reason for the request.

The successful Respondent must give the DBE five (5) days to respond to the successful Respondent's notice. In response, the DBE must advise the Authority and the successful Respondent of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Owner should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), Owner may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

6.15 49 CFR Part 26

The Respondent shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of Authority contracts. Respondent agrees to provide all its subcontractors and suppliers and to require all its subcontractors and suppliers on this project to provide a complete copy of the Disadvantaged Business Enterprise (DBE) Requirements of the Contract to all those who provide supplies or work related to the Contract and to require all those providing supplies or work to be bound by these requirements as it relates to their work related to the Contract.

7 TITLE VI SOLICITATION NOTICE

The Authority, 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 for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunities to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

8 INSURANCE REQUIREMENTS

The successful Respondent shall submit evidence of required insurance on an original ACORD certificate or comparable insurance certificate form(s) acceptable to the Authority, with required endorsements attached, the earlier of: fifteen (15) working days following award notification or prior to the scheduled commencement of work. Failure to submit the required document(s) may result in rescinding the award. The Contract may thereafter be awarded to the next qualified Respondent. A certificate of insurance is not required at the time of the response; however, an approved insurance certificate and amendatory endorsements are required to be on file prior to the start of the work. In addition, a copy of the policy or policies shall be provided by the successful Respondent upon request.

The insurance requirements are established in Section 17 of the Sample Contract, which is set forth in Section 18 below.

9 BOND REQUIREMENTS

9.1 Surety

Any bond provided to the Authority in connection with the response to this RFQ or any resulting agreement shall be executed by the Principal and Surety, and duly issued by an insurer or corporate surety which:

- a. Is authorized to conduct insurance business and provide surety bonds in the State of Tennessee; and
- b. Is otherwise in compliance with the provisions of the Tennessee Insurance Code; and
- c. Is authorized by the United States Department of Treasury pursuant to 31 U.S.C. § 9304-9308; and
- d. Has an A- or better rating and a Financial Size Category of "Class VII" or higher according to the most current edition of Best's Key Rating Guide; and
- e. Notwithstanding the provisions of (d) above, an insurer or corporate surety that is not rated by Best's Key Rating Guide may be accepted by the Authority following a review or investigation of the insurer's or corporate surety's financial and performance standing, including without limitation, its capital adequacy, assets, earnings, liquidity, and such other factors as the Authority may deem appropriate.

9.2 Proof of Surety

Any Proposal and/or Performance Bond submitted by Respondent must include an original, certified copy of, or certified electronic copy of the Power of Attorney authorizing the Attorney-in-Fact to execute the Proposal and/or Performance Bond on behalf of the Surety.

9.3 Proposal Bond

Each response must include an original, certified copy of, or certified electronic copy of a **Proposal Bond** with a valid Power of Attorney, at no cost to the Authority, in the amount of **Five Thousand Dollars (\$5,000.00)**, payable to the Memphis-Shelby County Airport Authority. Failure of the successful Respondent to execute the Contract within thirty (30) days after receiving the Contract document and furnish acceptable surety bonds and proof of required insurance prior to the Contract execution shall be just cause for cancellation of the award and forfeiture of the Proposal Bond, not as a penalty, but as liquidation of damages to the Authority.

Certified or cashier's checks will **NOT** be accepted in lieu of a proposal bond.

Proposal Bonds provided to the Authority in connection with the RFQ shall be duly issued by an insurer or corporate surety on a bond form provided by the Authority in Section 16.2, or on a form substantially the same as the Authority's form, and which obligates the surety for at least one hundred twenty (120) days following the date on which responses to this RFQ are publicly opened; and that is authorized to conduct insurance business in the State of Tennessee.

Failure to furnish a Proposal Bond with valid Power of Attorney, as specified, will result in rejection of Proposal for non-compliance.

9.4 Performance Bond

The successful Respondent will be required to furnish an original, certified copy of, or certified electronic copy of a **Performance Bond** at the time of Contract execution and prior to the start date of the Contract, in an amount **equal to contract price**, to guarantee the principal's performance of the Contract. The Performance Bond shall be made payable to the Memphis-Shelby County Airport Authority and shall remain in force for the duration of the Contract.

9.5 Contractor's Responsibility

The successful Respondent is solely responsible for providing surety bonds in connection with this RFQ and its resulting contract. Subcontractors are not required to provide any type of surety bond to the Authority in connection with this RFQ and or its resulting contract.

10 FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation 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 contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

11 SECURITY AND ACCESS

11.1 General Requirements

The successful Respondent shall comply with all Airport Security requirements concerning access to restricted areas of the buildings or airfield. Access to certain areas of the buildings may be restricted to off-peak working or operational hours or other reasons, and the Respondent will conduct their work accordingly. If the Authority determines that any employee(s) of the successful Respondent should not work on the Authority' property or on the Contract, the successful Respondent will immediately comply with the Authority's request to remove employee(s).

The successful Respondent and all employees performing duties under the Contract shall conform to all applicable aviation security procedures regarding the issue, wearing, replacement, and return of personal identification badges, as defined in the Airport Security Program (available through the Airport Identification Office) approved by the Transportation Security Administration (TSA) and amended from time to time.

All employees working under the Contract will be required to display on their person, at all times while on duty, an identification badge issued by the Authority. Identification badges will be worn on the outermost garment above the waist.

The successful Respondent will provide the Authority with a badge application signed by the Authorized Signatory of the successful Respondent.

Prior to the issuance of the airport identification badge, an airport badge application must be prepared and submitted to the Airport Identification Office. The application form for airport identification will be provided by the Authority and properly completed by the successful Respondent.

All employees must be able to meet the requirements of the TSA in order to receive an airport identification badge. Individuals will be issued a badge by the Airport Identification Office only after they have met all necessary security and training requirements including the appropriate certifications of the fingerprint-based background check and the Security Threat Assessment. Authority shall be responsible for all fees associated with the successful Respondent's badge applications; Respondents should not include any costs for badge application fees in their proposals.

In order to ensure control and accountability of airport identification badges, the successful Respondent will notify the Authority of the termination of any employee immediately and submit written notification of badge status of terminated employees within twenty-four (24) hours to the Security Access Supervisor, Airport Identification Office. The Airport Identification Office shall be immediately notified if the badge is not

recovered for any reason. Failure to recover the identification badge and return it to the Airport Identification Office will result in a one hundred dollar (\$100.00) fee assessed to the successful Respondent. The successful Respondent will also receive a Monthly Status Report and will verify accuracy of that report on a monthly basis.

ID badges reported lost or stolen must be thoroughly investigated and closely scrutinized. Replacement ID badges may be issued only upon written request from the Respondent. Such request must be on Company letterhead, stating the circumstances surrounding the loss, and be signed by an authorized Company representative on file with the Airport Identification Office. Replacement fees will be assessed to the successful Respondent; replacement fees for lost or stolen badges will be:

- First replacement \$100.00
- Second replacement \$150.00
- Third replacement* \$200.00

*Requires approval of the Director of Operations and Public Safety

11.2 Security Checkpoint Procedures

Security Checkpoints are located throughout the MEM terminal building. These checkpoints prevent access to certain “restricted” areas. Personnel must have the proper photo identification badge, as described in Section 11.1 Security and Access, in order to access areas beyond these checkpoints.

11.3 Operations of Others

During the time that successful Respondent is performing under the Contract, other persons may be engaged in other operations on or about the work site, including facility operations, pedestrian, bus, and vehicular traffic and other contractors performing at the work site, all of which shall remain uninterrupted.

The successful Respondent shall so plan and conduct its operations to work in harmony with others engaged at the site and not to delay, endanger, or interfere with the operations of others, whether or not specifically mentioned above, and in the best interests of the Authority. All operations should be conducted in a manner that ensures the safety and well-being of others.

12 TERMS OF PERFORMANCE

The Authority will contract with a single Respondent to provide services under the direction of the Authority’s Marketing Department, as outlined in the Scope of Services in this RFQ.

12.1 Contract Negotiations and Contract Form

One Respondent will be selected for contract negotiations in accordance with Section 15.4. Realizing that the final basis for agreement between the successful Respondent and the Authority must be a contract, Respondents shall indicate their willingness to negotiate a Contract acceptable to both Parties. This RFQ and specified portions of the

successful Respondent's response shall be incorporated into such Contract. The successful Respondent shall be required to execute a written contract with the Authority. The Authority will not execute the successful Respondent's standard contract.

12.2 Cancellation

Should the successful Respondent fail to meet the requirements of the Contract after it is executed, the Authority may cancel the Contract at once and award the remainder of the contract term to the next qualified Respondent. If the Contract is cancelled, all materials provided to Contractor shall be returned to the Authority.

12.3 Term of Contract

The initial term of this Contract shall be for a period of one (1) year commencing on the start date of the Contract (Contract Term). The Authority, in its sole discretion, reserves the option to extend the Contract Term for four (4) additional periods of one (1) year each (Renewal Terms) by giving written notice to the Company at least ninety (90) days before the expiration of the Contract Term or any Renewal Term. At the sole option of the Authority, the Contract may be extended beyond the four (4) Renewal Terms. The Contract shall be amended to reflect any negotiated and agreed upon Compensation for any such extension of this Contract.

12.4 Convenience Termination of Contract

The Authority may, at any time upon thirty (30) days written notice to successful Respondent specifying the effective date of termination, terminate the Contract, in whole or in part, when the Authority deems it to be in the Authority's best interests.

12.5 Payment and Billing Requirements

12.5.1 Invoice Submittal

Invoices for payments related to the services rendered under the Contract shall be presented at the completion of each task as described below. Payment will be made only for correct invoices presented with a complete itemization of the services rendered. Incorrect invoices will be returned for correction, unpaid. All invoices must include the contract number and/or the purchase order number. The successful Respondent must email the invoice to the email address below:

Finance Department - acctpayable@flymemphis.com

12.5.2 Payment Terms

The Authority shall use its best efforts to pay invoices within net thirty (30) days from the receipt of a correct invoice.

12.5.3 Taxes

The Authority is exempt from Local, State, and Federal taxes. Tax certificates will be issued to the successful Respondent.

13 SCOPE OF SERVICES

13.1 Overview

The successful Respondent shall perform all work in a timely manner and shall be responsible for ensuring coordination of its work and the work of its subcontractors. The Scope of Services involves providing public relations services to assist the Authority in its marketing, advertising, media relations and community affairs efforts. The services provided hereunder shall result in target audiences having an understanding of and positive perception of the Authority as an innovative, customer-service-oriented public institution. The services also will promote a high degree of understanding and goodwill by users of the Airport, including but not limited to passengers, business partners, employees, the general public, business community, tenants, and other governmental entities. The successful Respondent shall act as the Authority's public relations and marketing consultant, government relations consultant and shall perform, under prior written authorization by the Authority, any and all of the following services to the extent necessary to meet the Authority's needs:

- Develop and implement overall public relations and marketing strategies to ensure that the Authority communicates with passengers, partners, employees, media, the aviation community, community stakeholders, the general public and others with accuracy, clarity and uniformity.
- Write news releases, media advisories, pitch memoranda, speeches, and presentations as directed by the Authority.
- Provide creative services including concept development, design and production of advertisements for radio, television, print, Internet and other media outlets. The successful Respondent must have in-house creative capabilities.
- Provide creative development of collateral pieces, such as newsletters, annual reports or similar written compilations, as directed by the Authority.
- Assist with creating videos as directed by the Authority.
- Provide support and strategic counsel to marketing and outreach efforts for programs and initiatives such as the Authority's modernization program, MEMPERKS frequent parker program, community programs and initiatives customer service programs, and more.
- Attend periodic meetings with the President & CEO, Director of Strategic Marketing and Communications, Marketing & Communications Project Manager, Customer Relations Program Manager, or other executive staff members of the Authority to review issues.

- Attend meetings as directed by the Authority.
- Assist the Authority with special events.
- Perform such additional services as the Authority may from time to time require. The Authority may request creative services of the successful Respondent, whereby the successful Respondent will provide the Authority with an estimate of the total cost of any such services. The successful Respondent agrees that it will not proceed to provide any such creative services unless the successful Respondent receives advanced written notice from the Authority. The Authority may request the successful Respondent to provide creative services from concept to electronic media format, whereby the Authority is granted the full right and privilege of reproducing the same in either print, written, or electronic media that includes, without limitation, radio, television, or the Internet.
- Maintain contact with the Director of Strategic Marketing and Communications, Digital Design & Communications Program Manager, Media and Public Relations Program Manager, in person or telephonically for the purpose of establishing and maintaining a working relationship with the Authority staff and provide planning, counseling, writing, media contacts, and other similar services as are customarily performed by a public relations consultant in other, same or similar businesses or enterprises as that engaged in by the Authority.
- Provide any other marketing or public relations services as directed by the Authority.

13.2 Website Design and Content Management

The Scope of Services encompassed under this Contract includes assisting with the Authority's website including graphics, layout, navigation, media integration, interactive map, and a content management system.

13.3 Mobile Applications

The Scope of Services encompassed under this Contract includes the creation of a mobile application for the Memphis International Airport, including graphics, layout, navigation, and media integration.

13.4 Social Media Services

The Scope of Services encompassed under this Contract involves providing social media services to assist the Authority in its efforts to engage with the public through social media. The successful Respondent shall work and coordinate with and receive prior written authorization from the Authority to provide any and all of the following services to the extent necessary to meet the Authority's needs:

- Assist with marketing the Authority's social media presence, maximizing its influence, and expanding its reach.
- Assist with generating content for the Authority's social media sites.

13.5 Media Relations Services

The Scope of Services encompassed under this Contract involves procuring for the Authority all of its media needs, including but not limited to print, radio, television, Internet or other media designed to reach mass audiences including target audiences of citizens, businesses, government and the aviation community. These services also may include the purchase of media that uses, involves or encompasses multiple media simultaneously. The successful Respondent shall work and coordinate with and receive prior written authorization from the Authority, to provide any and all of the following services to the extent necessary to meet the Authority's needs:

- Develop and implement a media-buying strategy within the allotted budget to penetrate local and trade media so as to ensure that the Authority effectively communicates with members of the general public, specifically business and leisure travelers, and the aviation community with clarity and uniformity in the most cost-effective and efficient manner as possible.
- Develop and distribute media monitoring reports that detail local, regional and national stories that pertain to the Memphis International Airport or the Authority. These reports shall include daily and monthly recaps.
- Develop and implement media training for key employees on an as-needed basis.
- Perform such additional media services as directed by the Authority. Media shall not be placed without the Authority's prior written approval.

14 RESPONSE STRUCTURE

It is not the intent of the Authority to restrict response preparation; however, to enable the Authority to evaluate each response in a uniform manner, all Respondents shall structure their response by submitting one (1) marked as "original" and eight (8) marked "copies" of the response each in a three-ring binder with marked reference tabs containing the data requested and the forms provided in Sections 16 and 17 below. Respondents shall also include a USB drive with a complete digital copy of their response. **Submit data as requested in the following sections:**

14.1 Table of Contents

Respondent shall submit a Table of Contents outlining the response and shall include the tabs listed below.

14.2 Tab A – Company Information

Submitted under Tab A – Company Information, Respondent shall provide a brief company description, history, and financial status. In addition, Respondent must submit the requested information on the Respondent Information Form found in Section 16.1 below.

14.3 Tab B – References

14.3.1 Positive Comments

List four (4) references, with contact names and telephone numbers, for Public Relations & Marketing similar in size, scope of services, and complexity of the Memphis International Airport, who would have positive comments concerning their experience with your company. Please verify names and phone numbers of person to be contacted.

14.3.2 Negative Comments

List one (1) reference, with contact name and telephone number, for Public Relations & Marketing similar in size, scope of services, and complexity of the Memphis International Airport, who would have negative comments concerning their experience with your company. Please verify names and phone numbers of person to be contacted.

14.4 Tab C – DBE Inclusion

Discuss the ability and the intent of your firm to include DBE participation for this Contract. Respondent shall also include in this tab all required DBE documents/forms as stated in Section 6 above.

14.5 Tab D – Proposal Bond

All Respondents must include the original Proposal bond as described in Section 16.2. The selected Respondent will be required to submit at time of Contract an original Performance Bond as described in Section 9.4.

14.6 Tab E – Experience

14.6.1 Experience of the Respondent

Indicate the experience the Respondent and any subcontractors have in the following areas:

- a. Experience developing and implementing successful creative concepts.
- b. Overall knowledge and clear explanations regarding message development and implementation.
- c. Knowledge of regional audiences and messaging related to the Authority's market area.
- d. Knowledge of and ability to monitor, evaluate, and modify advertising schedules and messages as needed.
- e. Experience in all types of promotional media, including internet and social media.
- f. Experience working closely with corporate or government clients particularly airports.

- g. Experience with website design, management and maintenance.
- h. Experience with customer satisfaction survey creation, implementation and analysis.

14.6.2 Other Relevant Experience

Indicate other relevant experience that shows the qualifications of the Respondent, and any subcontractors for the performance of the Contract.

14.6.3 Relevant Contracts

Include a list of contracts the Respondent has held during the last five (5) years that relate to the Respondents ability to perform the services outlined in this RFQ. Show contract reference numbers, contract period, current and valid names of contact persons with telephone numbers and e-mail addresses. By including this list, the Respondent grants permission to the Authority to contact this client list.

14.7 Tab F – Project Management

14.7.1 Project Team Structure

Provide a description of the proposed project team structure to be used during the course of the project, including any subcontractors. Provide an organizational chart of the project team indicating lines of authority for personnel involved in performance of the project and relationships of this staff or subcontractors to other programs or functions of the Respondent. This chart must also show lines of responsibility to the next senior level of management and include who will have prime responsibility and final authority for the work.

14.7.2 Staff Qualifications / Experience

Identify staff, including subcontractors, who will be assigned to the project, indicating the responsibilities and qualifications of such personnel. Provide resumes (not to exceed two pages per person) for the named staff. Resumes must include information on the individual's particular skills related to the project, education, experience (both with the Respondent and others), significant accomplishments and any other pertinent information. The Respondent shall commit that staff identified in its Proposal will actually perform the assigned work. Any staff substitution must have prior written approval of the Authority.

14.8 Tab G – In-House Services

Please complete the In-House Services Questionnaire found in Section 16.3 indicating whether your firm can provide in-house the listed public relations, marketing, advertising, media-buying, and government relations services. If the service cannot be provided in-house, please list the company that will be providing the service.

14.9 Tab H – Technical Approach

The technical approach shall contain sufficient detail to convey the Respondent’s knowledge of the subjects and skills necessary to successfully complete the project. Include any involvement of the Authority’s staff. The Respondent may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.

The Technical Approach shall contain a comprehensive description of services including the following elements:

14.9.1 Work Plan

Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the project goals as below. Please limit to five (5) pages or less.

The successful Respondent’s responsibilities may include:

- Work with Authority staff to develop primary messages and themes that build and sustain public awareness of the available passenger service and airlines that provide service to the Memphis market, as well as an including the customer service elements, available concessions, and parking products. The Work Plan should discuss how the regional media campaign would utilize radio, television, print, billboards, internet and social media.
- Develop marketing brochures, PowerPoint presentations, and collateral materials in support of marketing Memphis International Airport.
- Designing, branding and marketing of the Authority’s website, including mobile technology.
- Demonstrate successful implementation and coordination of social media campaigns.
- Demonstrate successful implementation and coordination of strategic and/or crisis communications plans.
- Work with Authority staff to develop public events, exhibits, and promotional items (signage/banners/specialty advertising), to reinforce the media campaign at community and special events and presentations.
- Demonstrate media buying experience, capability and acumen.
- Monitor, evaluate and modify advertising schedules and messages as required.

- Elaborate on understanding of regional media outlets, festivals, events, professional and collegiate athletic sports and other activities.
- Identify components of a marketing and advertising campaign that can be easily, quickly and inexpensively adapted to changes in messaging.

14.10 Tab I – Examples of Past Work

Provide examples of your team’s previous work that you feel best exemplify the kinds of work you have done for an organization that is similar in scope to the RFQ. Examples should include websites, social media, publications, reports, media announcements, newsletters, etc. The document(s) may be redacted to remove information deemed proprietary, confidential or sensitive by the Respondent. Please include any examples from any current or former airport clients.

Submission of prior work samples must be by electronic media only (thumb drive, CD or DVD, and must be in a common file type (i.e. .pdf, .doc, .jpg., .wav, .mov), and must be subject to public dissemination and display with no restrictions.

14.11 Tab J – Executive Summary

Describe your team’s approach to providing the services in this RFQ, identifying any unique or distinctive features, or alternatives to which the Respondent wishes the evaluation committee to give particular attention. Please limit to one page.

14.12 Tab K – Additional Data

Submit additional data, exhibits, statements, and drawings necessary to assure the Authority has a total understanding of the Response. Include any other material which your team believes would be helpful in evaluating the quality of your firm and its overall operations. The Authority may require an interview with short-listed Respondents to obtain a better understanding of their Response.

14.13 Tab L – Contract Changes

A sample contract may be found in Section 18 of this document. Please review the sample contract as it contains the Authority’s standard terms and conditions. The Authority may negotiate additional terms with the chosen Respondent as appropriate, and these terms will be incorporated into the Contract. The Authority reserves the right to change the sample contract; however, if changes are requested to this sample contract by the Respondent, the Respondent must submit those proposed changes under Tab L - Contract Changes for review and possible approval by the Authority. If no changes are submitted, the Authority’s interpretation will be the Respondent is accepting the Contract as shown in the sample contract. The successful Respondent will not be allowed to change the content of the sample contract terms which may be incorporated in the final Contract, unless those proposed changes are submitted under

Tab L and approved by the Authority. **Do not return the sample contract with your response.**

15 AWARD

15.1 Solicitation

Responses are solicited from all companies that wish to be considered for the services outlined in this Request for Qualifications document. The Authority will make its selection from the information contained in the responses to the Request for Qualifications submitted by the due date. All parties are encouraged to respond in depth with statements containing specific experience and qualifications related to this RFQ in the format described herein.

15.2 Evaluation Criteria

The following criteria, although not exhaustive, may be used in the evaluation. The Authority reserves the right to change or modify the criteria. The following list in alphabetical order illustrates some of the criteria that may be used in the evaluation process.

15.2.1 Demonstrated ability to perform the requested services for corporate or public entities

15.2.2 Interviews

15.2.3 Level of innovation and experience of team members providing marketing and public relations services on similar engagements

15.2.4 Quality of work plan

15.2.5 Responses of references

15.2.6 Responsiveness, organization, and clarity of the submittal

15.3 Oral Presentation

The Authority will select the top scoring finalists from the written submittals for an oral presentation.

15.4 Final Selection

Once the oral presentations have been completed, those Respondents will be ranked, and the ranking approved by the Authority's Board of Commissioners. Subsequently, the Authority staff will attempt to contract with the number-one-ranked firm. If negotiations are successful, the selected firm shall be recommended to the President for final approval. If an appropriate Contract cannot be negotiated with the first choice, negotiations shall be terminated, and the second ranked firm may be contracted. This

may continue until successful negotiations have been concluded or it is determined that it is in the Authority's best interest to cease negotiations and/or issue a new RFQ.

15.5 *The Authority's Right to No Award or Partial Award*

Award will be made to the best qualified, responsive Respondent, if awarded. The Authority reserves the right to reject all responses, reject portions of any response, or accept the response deemed most advantageous to the Authority.

15.6 *Cancellation*

Should the successful Respondent fail to execute or meet the requirements of the Contract after it is executed, the Authority may cancel the Contract at once and award the Contract to the next best qualified, responsive Respondent.

15.7 *Anticipated Contract Date*

The Authority anticipates the commencement date of the Contract to be October 1, 2024.

16 REQUEST FOR QUALIFICATIONS FORMS

16.1 Respondent Information Form (Required)

If Respondent is an **INDIVIDUAL**, fill out the following:

Individual's name: _____

If Respondent is a **PARTNERSHIP**, fill out the following:

Partner Name:

Partner Address:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

If Respondent is a **CORPORATION**, fill out the following:

NAME OF CORPORATION PRESIDENT: _____

NAME OF CORPORATION SECRETARY: _____

All Respondents fill out the following:

NAME OF COMPANY: _____

PRINCIPAL BUSINESS ADDRESS: _____

CITY, STATE, ZIP CODE: _____

LOCAL STREET ADDRESS: _____

CITY, STATE, ZIP CODE: _____

FEDERAL TAX ID #: _____

TELEPHONE NUMBER: _____ CELL NUMBER: _____

EMAIL ADDRESS: _____

PRINTED NAME: _____

SIGNATURE OF RESPONDENT: _____

16.2 Proposal Bond

PROPOSAL BOND

KNOW ALL PERSONS BY THESE PRESENTS, that we the undersigned,

_____ as Principal and
(Insert full legal name and address or Respondent/Offeror)

_____ as Surety,
(Insert full name and address or legal title of Surety)

Licensed under the laws of the State of Tennessee to act on surety bonds for principals, are hereby held and firmly bound unto

Memphis-Shelby County Airport Authority
2491 Winchester Road, Suite 113
Memphis, Tennessee 38116-3856

in the sum of \$5,000.00, for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, and administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a proposal to Memphis-Shelby County Airport Authority for Public Relations and Marketing Services, Proposal Number 24-0016, and more fully described in said Request for Qualifications and made a part hereof and incorporated herein by reference; and

WHEREAS, it is one of the conditions of the Request for Qualifications that this Bond be executed prior to the award of the Contract;

NOW, THEREFORE, if the Proposal shall be accepted and the Principal shall enter into a Contract in accordance with the terms of such Proposal, and furnish such bonds and proof of insurance as required in the Proposal or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the performance thereof and in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bond, then this obligation shall be void, otherwise the same shall remain in full force and effect. The Principal or the Surety shall not be liable for any amount in excess of the sum stated in this Bond, and the obligation shall be in no way impaired or affected by any extension of time within which the Proposal may be accepted; and said Surety does hereby waive notice of any such extension.

Signed and sealed this _____ day of _____, 20_____.

PRINCIPAL

SURETY

Respondents Name

(Surety)

By: _____
Signature of Principal

By: _____
Signature of Attorney-in-Fact

Printed Name

Printed Name

16.3 In-House Services Questionnaire

Please complete the following In-House Services Questionnaire indicating whether your firm can provide in-house the listed public relations, marketing, advertising, media-buying, and government relations services. If the service cannot be provided in-house, please list the company that will be providing the service.

| Service Description | In-House (Yes/No) | Firm Providing the Service |
|---|-------------------|----------------------------|
| Local Media Relations | | |
| National Media Relations | | |
| Trade Publication Media Relations | | |
| Crisis Communications | | |
| Strategic Communications | | |
| Internal Communications | | |
| Advertising – print and broadcast | | |
| Media Buying | | |
| Event Planning | | |
| Conference Planning | | |
| Graphic Design | | |
| Feature Writing | | |
| Op-ed Writing | | |
| Media Training | | |
| Collateral Production | | |
| Market Surveys | | |
| Survey Analysis | | |
| Branding | | |
| Opinion Polling | | |
| Customer Service Training | | |
| Web-based Marketing | | |
| Internal Presentations | | |
| External Presentations | | |
| Social Media | | |
| Media Monitoring | | |
| Videography | | |
| Targeted Marketing Campaigns | | |
| Current Opinion-leader Lists and Contacts | | |
| Website Design and Development | | |
| | | |
| | | |
| | | |

17 DBE FORMS

17.1 DBE Assurance Statement/Letter of Intent (Required)

Submit on Company Letterhead for each DBE Subcontractor

| DBE ASSURANCE STATEMENT/LETTER OF INTENT | | |
|---|--------------|------------|
| RESPONDENT: | | |
| Name of Firm: _____ | | |
| Address: _____ | | |
| City: _____ | State: _____ | Zip: _____ |
| Telephone: _____ | | |
| DBE: | | |
| Name of Firm: _____ | | |
| Address: _____ | | |
| City: _____ | State: _____ | Zip: _____ |
| Description of work to be performed by DBE: _____ _____ | | |
| The Respondent is committed to utilizing the above-named DBE for the work described above. The estimated value of this work is _____% of the total base contract value. | | |
| AFFIRMATION | | |
| The above-named DBE affirms that it will perform the portion of the contract for the estimated dollar value as stated above. | | |
| By: _____ | | |
| Signature of DBE and Title | Date | Name |
| By: _____ | | |
| Signature of 2 nd /3 rd Tier Subcontractor and Title | Date | Name |
| If the Respondent does not receive award of the prime contract, any and all representations in this letter of Intent and Affirmation shall be null and void. | | |
| By: _____ | | |
| Signature of Respondent and Title | Date | Name |

17.2 Respondent DBE Goals Accomplishment Statement (Required)

Submit on Company Letterhead

RESPONDENT DBE GOALS ACCOMPLISHMENT STATEMENT

The undersigned Respondent has satisfied the requirements of the bid/proposal specification in the following manner (please complete the appropriate spaces):

- The Respondent is committed to a minimum of 23% DBE utilization on this contract.
- The Respondent is unable to meet the DBE goal of 23% but is committed to a minimum of _____%

DBE utilization on this contract and submits the attached narrative and documentation demonstrating good faith efforts consistent with Appendix A of 49 CFR 26. **The Respondent should attach as many pages as necessary to provide a full and complete narrative and supporting documentation of good faith efforts made. This narrative must be written on company letterhead and signed.**

Please provide an explanation for the percentage quoted above:

Provide an explanation of the DBE's participation and how this has been determined to meet the specific goal requirements of this solicitation in whole or part.

If DBE and company will enter into a Joint Venture, please describe the terms of the relationship and attach a copy of the contract between the parties.

It is the present intent of the Respondent to utilize the specific DBE firms identified in this proposal in the execution of this contract. If for any reason, one or more of the DBE identified here are unable or unwilling to participate, the Respondent will make good faith efforts to replace the DBE with a similar DBE. The Authority DBE Good Faith Procedures are provided in this package and apply to this proposal.

Respondent's Name: _____

State Registration No.: _____

Federal Tax ID No.: _____

By: _____
Signature and Title Date

17.3 Information on All Firms Providing Responses (Required)

Information on All Firms that Provided Bids or Quotes

The Memphis Airport Authority (MEM) maintains bidding statistics, regarding ALL firms bidding on prime contracts and subcontracts on US Department of Transportation (DOT) assisted projects in accordance with federal regulation 49 CFR Part 26.11. **This information will only be used for statistical purposes per 49 CFR Part 26.11** This requirement applies to all firms, regardless of whether they are subs or primes, regardless of the gender or race of their owners, and regardless of whether they are ultimately chosen to participate in the contract. Please list below the name, address, phone number and contact person for every firm that provided you a bid or a quote on this project – even if you ultimately decided not to use the firm in preparing your final bid. The first line should be used for the **prime contractor** on this project. All sections must be completed to the best of your ability.

| Firm Name | Prime /Sub | POC | DBE Y/N | Race* | Gender | Address | City | State | Zip | Phone | Scope of Work | Email Address | NAICS Code | Firm Age YRS | AGR* |
|-----------|------------|-----|---------|-------|--------|---------|------|-------|-----|-------|---------------|---------------|------------|--------------|------|
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*Enter the letter for the category that best identifies your Annual Gross Revenue (AGR):
A = Less than \$500,000 B = \$500,000 - \$1 Million C = \$1 - \$2 Million D = \$2 - \$5 Million E = Over \$5 Million

*Enter the letter for the category that best identifies race/ethnicity: F =Caucasian G =African American H = Hispanic/Latino I = Other

17.4 Voluntary Disclosure of Respondent Data (Voluntary)

Do **not** submit this form on company letterhead

| <u>VOLUNTARY DISCLOSURE OF RESPONDENT DATA</u> | | |
|--|-----------------------------|-------|
| For Title VI Compliance, the Authority asks for <u>voluntary disclosure</u> of the following information: | | |
| Gender: | Male | _____ |
| | Female | _____ |
| Race: | Caucasian | _____ |
| | Black American | _____ |
| | Hispanic American | _____ |
| | Native American | _____ |
| | Subcontinent Asian American | _____ |
| | Asian-Pacific American | _____ |
| | Other (please specify) | _____ |

18 SAMPLE CONTRACT

CONTRACT

FOR

BY AND BETWEEN

THE MEMPHIS-SHELBY COUNTY AIRPORT AUTHORITY

AND

THIS CONTRACT made and entered into this [day] day of [month], [year], (the “Contract” or “Agreement”), by and between _____. (“Company” or “Contractor”) and **Memphis-Shelby County Airport Authority**, a body politic and corporate organized and existing under and by virtue of the laws of the State of Tennessee, (“Authority” or “Sponsor” or “Owner”). The Authority and the Company may be referred to herein individually as a “Party” and collectively as the “Parties”.

WITNESSETH THAT:

For and in consideration of the mutual promises, covenants, and stipulations of each Party to the other, the Company agrees to provide the Authority with services on the terms and conditions set forth herein as follows:

1 PERFORMANCE

Company shall provide _____ to the Authority in accordance with the Scope of Services (“Scope of Services”), which is attached hereto as Exhibit A and incorporated herein by reference. The Authority and the Company agree that from time to time it may be necessary to add to, delete from, or amend the Scope of Services in order to better meet the needs of the Authority, as determined by the Authority in its sole discretion. In such event, the Parties shall, in writing, amend this Contract if the Parties reach an agreement on modifications of the Scope of Services and Compensation, which is defined in the “Compensation” section below.

2 COMPENSATION

For satisfactory performance, the Authority agrees to pay the Company in accordance with the Schedule of Compensation (“Compensation”) which is attached hereto as Exhibit B and incorporated herein by reference. The Authority agrees to remit payment to Company within thirty (30) days of receipt of a properly submitted and approved invoice with a complete itemization of the charges, including any and all supporting documentation. However, if Company has an outstanding debt with the Authority for any fees or expenses related to this Contract, and the debt is over thirty (30) days past due, the Authority reserves the right to deduct the amount owed from the Company’s submitted invoice. The Contract number must be included on the invoice in order for the invoice to be considered properly submitted.

3 TERM AND RENEWAL

The initial term of this Contract shall be for a period of one (1) year commencing on the start date of the Contract (Contract Term). The Authority, in its sole discretion, reserves the option to extend the Contract Term for four (4) additional periods of one (1) year each (Renewal Terms) by giving written notice to the Company at least ninety (90) days before the expiration of the Contract Term or any Renewal Term. At the sole option of the Authority, the Contract may be extended beyond the four (4) Renewal Terms. The Contract shall be amended to reflect any negotiated and agreed upon Compensation for any such extension of this Contract.

4 TERMINATION OF CONTRACT

The Authority may, at any time upon thirty (30) days written notice, terminate this Contract in whole or in part at any time, either for the Authority's convenience or because of failure by Company to fulfill the Contract obligations. Upon receipt of such notice, services shall be discontinued on the effective date of termination (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 Authority.

If the Authority terminates this Contract, the Authority shall be liable under the payment provisions of this Contract only for payment for services rendered and expenses incurred before the effective date of termination.

Company may terminate this Contract upon thirty (30) days written notice to Authority if Authority is in material breach of this Contract and fails to cure the breach before the end of the thirty (30) day notice period.

If, after notice of termination for failure to fulfill contract obligations, it is determined that the Company had not so failed, the termination shall be deemed to have been affected for the convenience of the Authority.

The rights and remedies of the Authority provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

5 UPON TERMINATION

If this Contract is terminated prior to Company's completion of the services to be performed hereunder, then all finished or unfinished documents or other materials prepared or obtained by Company pursuant to this Contract shall become the Authority's property to the extent allowable by law and accounting standards. If this Contract is terminated prior to Company's completion of the services to be performed hereunder, Company shall return to Authority any sums paid in advance by Authority for services that would otherwise have had to be rendered between the effective date of termination and the original ending date of the Contract. Company shall prepare an accounting of the services performed and money spent by Company up to the effective date of termination and shall return to Authority any remaining sums within thirty (30) days of such date.

6 DEFAULTS AND REMEDIES

6.1 DEFAULTS

Company shall be in default of this Contract upon the occurrence of any of the following events:

- a. If Company fails to comply with any of the provisions required of Company under this Contract, and such failure continues for a period of twenty-four (24) hours after written notice thereof is given to Company by the Authority; or
- b. If, by operation of law or otherwise, the right, title, or interest of Company in this Contract is transferred to, passes to, or devolves upon any other person, firm, or corporation without prior written consent of the Authority; or
- c. Upon the levy of any attachment or execution of any process of a court of competent jurisdiction which does or will interfere with Company's performance under this Contract, and which attachment, execution, or other process of such court is not enjoined, vacated, dismissed, or set aside within a period of thirty (30) days; or
- d. Upon the suspension, revocation, or termination of any power, license, permit, or authority that has the effect of preventing Company from performing under this Contract.

6.2 REMEDIES

Upon the occurrence of any one or more of the events as set forth above, or upon any other default or breach of this Contract by Company, the Authority may, at the Authority's sole option, exercise concurrently or successively, any one or more of the following rights and remedies without waiving such default or breach:

- a. Interplead funds to a court or pay any sum required to be paid by Company to parties other than the Authority, and which Company has incurred in connection with this Contract and failed to pay. Any amount so paid in good faith by the Authority, together with interest thereon at the maximum rate provided by law from the date of such payment, and all expenses connected therewith shall be repaid by Company to the Authority on demand; or
- b. Enjoin any breach or threatened breach by Company of any covenants, sections, terms, provisions, or conditions hereof; or
- c. Bring suit for the performance of any covenant devolving upon Company for performance or damage thereof, all without terminating this Contract; or
- d. Terminate this Contract upon ten (10) days written notice to Company, specifying date of termination and upon payment of all fees and expenses incurred prior to termination.

7 RIGHTS AND REMEDIES CUMULATIVE AND NOT EXCLUSIVE

All rights and remedies granted to Authority herein and any other rights and remedies which Authority may have at law and in equity are hereby declared to be cumulative and not exclusive, and the fact that Authority

may have exercised any remedy without terminating this Contract shall not impair Authority's rights thereafter to terminate or to exercise any other remedy herein granted or to which Authority may be otherwise entitled.

8 RECOVERY OF FEES AND EXPENSES

In the event of any claim or other matter in question between the Authority and Company arising out of, or relating to, this Contract or the breach thereof and in addition to any other remedies or recoveries provided herein, the Company shall be liable for and shall promptly reimburse the Authority for any cost or expense incurred by the Authority, including fees and expenses of its attorneys, consultants, and experts, as a result of (i) Company's failure to perform in accordance with the terms of this Contract; (ii) breach of the warranties and guaranties set forth in this Contract; or (iii) any successful action taken by the Authority to enforce the terms of this Contract.

9 WAIVER

Waiver by the Authority of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant, or condition. No term, covenant, or condition of this Contract can be waived except by written consent of Authority, and forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of same to be performed by Company to which the same may apply and, until complete performance by Company of the term, covenant, or condition, Authority shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

10 FORCE MAJEURE

Neither Party shall be liable for any failure or delay in performance under this Contract (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused (i) by causes beyond that Party's reasonable control and (ii) occurring without its fault or negligence, including, without limitation, failure of suppliers, subcontractors, and carriers, or Party to substantially meet its performance obligations under this Contract, provided that, as a condition to the claim of non-liability, the Party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused; however, such delays shall not be grounds for an adjustment in Compensation.

11 ASSIGNMENT

The Company shall not assign the Contract or any part hereof or any monies due or to become due hereunder without the prior written approval of the Authority.

12 SUCCESSORS AND ASSIGNS

The Authority and the Company each binds itself and its partners, successors, executors, administrators and assigns, to the other Party of this Contract and to the partners, successors, executors, administrators, and assigns of such other Party with respect to all covenants, terms, provisions, and conditions of this Contract. Neither the Authority nor the Company shall assign, sublet, or transfer its interest in this Contract without the prior written consent of the other; provided, however, that claims for money due, or to become due the

Company from the Authority under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of such assignment or transfer shall be furnished promptly in writing to the Authority. Except as provided for above, if Company should subcontract, assign, or transfer any part of Company's interests or obligations under this Contract without the prior written approval of Authority, it shall constitute a material breach of this Contract.

13 INDEPENDENT COMPANY

Company is an independent contractor with respect to all services performed under this Contract. Company accepts full and exclusive liability for the payment of any and all premiums, contributions, or taxes for workers' compensation, Social Security, unemployment benefits, or other employee benefits now or hereinafter imposed under any state or federal law which are measured by the wages, salaries, or other remuneration paid to persons employed by Company on work performed under the terms of this Contract. Company shall defend, indemnify, save, and hold harmless the Authority from any claims or liability for such contributions, benefits or taxes. Nothing contained in this Contract, nor any act of the Authority or Company, shall be deemed or construed to create any third-party beneficiary or principal and agent association or relationship with the Authority. The Company is not the Authority's agent and the Company has no authority, express, apparent or otherwise, to take any action or execute any documents on behalf of the Authority.

14 NO FINANCIAL INTEREST

Company understands and agrees that no Authority employee or member of the Board of Commissioners of the Authority, Memphis City Council, or Shelby County Board of Commissioners shall receive any financial benefit arising out of this Contract, either directly or indirectly.

15 INDEMNIFICATION

- a. Company shall defend, indemnify, and hold harmless the Authority and its commissioners, officers, agents and employees, from and against all claims, damages, demands, liability, losses, acts of God, costs, fines, and expenses of any nature whatsoever, including reasonable attorneys' fees, arising out of or resulting from any negligent acts or omissions in connection with Company's performance of this Contract, to the extent caused in whole or in part by Company or its employees, officers, agents, or subcontractors, or caused by others for whom Company is liable except to the extent of intentional misconduct of the Authority. The indemnity set forth in this section shall survive the expiration or earlier termination of this Contract.
- b. When the Company is obligated to provide the Authority a defense hereunder, it shall do so with qualified counsel that is selected by the Company and approved by the Authority. Such approval shall not be unreasonably withheld. In light of the Authority and the Company's continuing relationship, however, the potential for conflicts of interests exists if the same counsel represents both the Authority and the Company when the Company accepts the Authority's tender of defense under the indemnity provision of this Agreement. Therefore, the Authority retains the right to select its own counsel from a list of qualified attorneys provided by the Company or the Company's insurer. The selected counsel's fees and expenses shall be paid for by the Company or its insurer, and the counsel shall be different from that selected by the Company to represent it in the same matter.

16 LAWS, PERMITS AND LICENSES

Company shall abide by and observe all laws, ordinances, and regulations relating to the work to be done pursuant to this Contract. Company shall secure all permits and pay all license fees required by law before beginning the services.

17 INSURANCE REQUIREMENTS

See Exhibit C for Insurance Requirements.

18 DAMAGE TO AUTHORITY PROPERTY

Company agrees to promptly notify Authority of any damage caused to Airport property by Company. Company shall reimburse the Authority for costs associated with any damage to Authority property caused by Company, including damages arising from Company's activities on or use of Airport property or any of Company's representatives, managers, employees, agents, contractors, subcontractors, licensees or invitees for its use, conduct or activities. This provision shall survive the termination of this Contract.

19 AUDIT

The Authority shall have the right to audit this Contract along with any and all books, documents, and records relating thereto, as deemed necessary by the Authority, in its sole discretion. The books, documents, and records of Company in connection with this Contract shall be made available to the Authority in the Authority's offices or other locations in Memphis, Tennessee, acceptable to the Authority, within ten (10) days after a written request is made. The Authority may audit the Company's records at any time within three (3) years of each year ended June 30. The provisions of this section shall survive the expiration or earlier termination of the Contract by a period of no less than three (3) years.

20 GOVERNING LAW

This Contract shall be interpreted, construed and performance shall be governed by and in accordance with the laws of the State of Tennessee. Authority and Company irrevocably agree that should any litigation arise out of this Contract, it shall be brought in the state or federal courts in Shelby County, Tennessee.

21 SURVIVAL OF OBLIGATIONS

All obligations of the Parties that either expressly or by their nature survive the expiration or termination of this Contract shall continue in full force and effect subsequent to, and regardless of, this Contract's expiration or termination and until they are fully satisfied or by their nature expire.

22 STATE OF TENNESSEE PURCHASING PROVISIONS

Iran Divestment. Company and each person signing on behalf of the Company certifies, under penalty of perjury, that to the best of its knowledge and belief Company is not on the list of persons engaging in investment activities in Iran created pursuant to T.C.A. § 12-12-106.

No Boycott of Israel. Pursuant to T.C.A. § 12-4-119, Company certifies that Company is not currently engaged in, and will not for the duration of services herein engage in, a boycott of Israel.

23 UNCONDITIONAL OBLIGATION TO PROCEED

Notwithstanding anything herein to the contrary, when the Authority has requested work for which time is of the essence, the Company will proceed with the work even if it has a dispute with the Authority concerning the amount to be paid.

24 CONTRACT DOCUMENTS

The documents which comprise the entire Contract between the Authority and the Company (“Contract Documents”) consist of the following:

- a. This Contract
- b. Exhibit A – Scope of Services
- c. Exhibit B – Schedule of Compensation
- d. Exhibit C – Insurance Requirements
- e. Exhibit D – Required contract provisions for Airport Improvement Program and for Obligated Sponsors

25 SEVERABILITY

In the event any provisions of this Contract shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the Parties. One or more waivers by either Party of any provision, term, condition or covenant shall not be construed by the other Party as a waiver of a subsequent breach of the same by the other Party.

26 BONDS

The Company is required to furnish an original, certified copy of, or certified electronic copy of a Performance Bond and a Labor and Material Payment Bond at the time of Contract execution and prior to the start date of the Contract, in an amount equal to contract price, to guarantee the Company’s performance of the Contract. The bonds shall be made payable to the Memphis-Shelby County Airport Authority and shall remain in force for the duration of the Contract.

The bonds submitted by Company must include an original, certified copy, or certified electronic copy of the Power of Attorney authorizing the Attorney-in-Fact to execute the bonds on behalf of the Surety. The bonds provided to the Authority in connection with this Contract shall be executed by the Company and Surety, and duly issued by an insurer or corporate surety which:

- a. Is authorized to conduct insurance business and provide surety bonds in the State of Tennessee; and
- b. Is otherwise in compliance with the provisions of the Tennessee Insurance Code; and
- c. Is authorized by the United States Department of Treasury pursuant to 31 U.S.C. § 9304-9308; and
- d. Has an A- or better rating and a Financial Size Category of “Class VII” or higher according to the most current edition of Best’s Key Rating Guide; and
- e. Notwithstanding the provisions of (d) above, an insurer or corporate surety that is not rated by Best’s Key Rating Guide may be accepted by the Authority following a review or investigation of the insurer's or corporate surety's financial and performance standing, including without limitation, its capital adequacy, assets, earnings, liquidity, and such other factors as the Authority may deem appropriate.

27 GENERAL WARRANTY AND CORRECTION OF WORK

The Company warrants to the Authority that all materials and equipment furnished in performance of the work, as described in the Scope of Services, (“Work”) will be new unless otherwise specified, and that all Work whether observed before or after the substantial completion date and whether or not fabricated, installed or completed. The Company shall bear all costs of correcting defective Work.

If, within one (1) year after the substantial completion date, any of the Work is found to be defective, the Company shall correct it promptly after receipt of a written notice from the Authority to do so.

All defective or non-conforming Work shall be removed from the site of the Work if necessary, and the Work shall be corrected to comply without cost to the Authority. The Company also shall bear the cost of making good all work of other contractors destroyed or damaged by removal or correction of the defective Work of Company.

If the Company fails to timely and properly correct defective Work, the Authority may correct it and hold the Company liable for all costs, expenses and damages, including attorney’s fees and litigation costs incurred by Authority in correcting it.

In addition to the foregoing warranty, a warranty period of one (1) year shall apply under the same terms and conditions as the original warranty, to any work, supplied in correction of defective work under warranty and the Company shall assign to the Authority any warranties, including extended warranties, which are available in connection with the performance of such correction of defective Work. The warranty period shall commence on the date the Authority accepts the corrective Work of the Company.

28 NOTIFICATION

All written notices, demands or requests of any kind that either Party desires to serve on the other Party in connection with this Contract may be served by hand-delivery or by mail at the addresses below or such other addresses as may be provided in writing. Any such notice or demand so served by mail shall be mailed or delivered by certified or registered mail with postage or fees thereon fully prepaid, and addressed to the Parties as follows:

If to Authority: Memphis-Shelby County Airport Authority
Director of Procurement
2491 Winchester Road, Suite 113
Memphis, TN 38116-3856

Memphis-Shelby County Airport Authority
General Counsel
2491 Winchester Road, Suite 113
Memphis, TN 38116-3856

If to Company: VENDOR
CONTACT
ADDRESS
CITY, STATE, ZIP

Any notice to either Party relative to any part of the Contract shall be considered delivered and the service thereof completed when said notice is posted by certified or registered mail to the other Party at its last given address or delivered in person to the other Party or to its authorized representative.

29 ENTIRE AGREEMENT

This Contract constitutes the complete agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations, stipulations, representations, or agreements, whether written or oral. The provisions of this Contract may only be modified, amended or waived by a written instrument executed by the Parties. If any provision or term of this Contract shall be determined to be illegal, invalid or unenforceable, the remainder shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

30 EXECUTION OF CONTRACT

The parties hereby agree and express their intent to execute this Contract electronically if Authority has a designated information processing system. The parties also hereby agree that this Contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the signatures of the respective Parties by their duly authorized officers on the date first above written.

MEMPHIS-SHELBY COUNTY AIRPORT AUTHORITY

[VENDOR]

By: _____

By: _____

Title: President and CEO

Title: _____

Approved as to Content:

By: _____

Title: Vice President of Finance & Administration/CFO

By: _____

Title: VP of Operations

Reviewed and Approved:

By: _____

Title: Director of Strategic Marketing & Communications/PIO

Approved as to Form and Legality

By: _____

Title: General Counsel

Reviewed and Approved as to DBE Provisions:

By: _____

Title: Senior Manager of Business Diversity Development

EXHIBIT A
SCOPE OF SERVICES

INSERT SCOPE OF SERVICES

EXHIBIT B
SCHEDULE OF COMPENSATION

EXHIBIT C
INSURANCE REQUIREMENTS

Prior to commencing work, the Company and its Subcontractor, if any (hereinafter collectively called Company) shall procure and continuously maintain, at its sole cost and expense, with insurers' financially acceptable and lawfully authorized to do business in Tennessee and any other states where work or operations are performed on behalf of the Authority, the insurance coverage required herein. The minimum limits for the insurance coverage required herein are listed below unless higher limits are required by law.

C.1 MINIMUM SCOPE AND LIMITS OF INSURANCE

All General Liability policies of insurance with respect to work to be performed under the Contract and submitted by the Company, whether it be separate policies or on a combined form, must be written on an occurrence basis. Acceptance by Authority of insurance submitted by the Company does not relieve or decrease in any manner the liability of the Company for performance of the work required under the Contract, nor alter Company's indemnification obligations under the Contract. The Company shall increase such minimum limits upon written request from the Authority. The Company is responsible for any losses, claims, and costs of any kind which the Company's insurance does not cover.

C.1.1 COMMERCIAL GENERAL LIABILITY

Company's insurance coverage shall be on an occurrence coverage form, with coverage at least as broad as that provided under the current edition of the *Insurance Services Office Commercial General Liability Policy, CG 00 01* ©, and shall provide coverage for bodily injury, property damage, personal injury, advertising injury, premises and operations, products and completed operations. There shall be no limitations or exclusions beyond those contained in CG 00 01 04 13 which apply to property damage, products and completed operations, or contractual liability.

Company shall maintain Commercial General Liability with limits not less than:

\$1,000,000 bodily injury and property damage per occurrence
\$1,000,000 personal and advertising injury per occurrence
\$2,000,000 products and completed operations aggregate
\$2,000,000 general aggregate

C.1.2 AUTOMOBILE LIABILITY

Company shall maintain coverage for liability with respect to the use or operation of any auto, including those owned, hired or otherwise operated or used by or on behalf of the Company. The coverage shall be at least as broad as the current edition of the *Insurance Services Office Business Automobile Policy, CA 00 01* © and include Symbol 1 'any auto'.

\$ 1,000,000 combined single limit each accident

If Company's scope of services is mandated by State and/or Federal DOT regulations, Company will be in compliance with all applicable mandates at all times.

C.1.3 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY

Company shall maintain Workers' Compensation coverage in accordance with the statutory requirements and regulations of the State of Tennessee, and shall voluntarily provide workers' compensation coverage for proprietors, partners or others not statutorily required to maintain workers compensation insurance. Coverage shall endorse the Authority as an Alternate Employer and provide a copy of such endorsement to the Authority.

Company shall maintain Employer's Liability insurance of not less than:

\$1,000,000 for bodily injury by accident
\$1,000,000 for bodily injury by disease
\$1,000,000 policy aggregate

C.1.4 UMBRELLA LIABILITY

Company shall maintain umbrella liability coverage on an occurrence coverage form, with coverage following form to the coverages provided by the current editions of the *Insurance Services Office Commercial General Liability Policy, CG 00 01 @*, the *Insurance Services Office Business Automobile Policy, CA 00 01* and *Insurance Service Office Workers' Compensation and Employers Liability Policy WC 00 00* in accordance with the statutory regulations of the State of Tennessee with coverage not less than

\$5,000,000 per occurrence
\$5,000,000 annual aggregate

C.1.5 CYBER LIABILITY

Company shall maintain Cyber Liability insurance in an amount not less than:

\$ 3,000,000 per incident
\$ 3,000,000 policy aggregate

C.1.6 PROFESSIONAL LIABILITY INSURANCE

Per Claim and in the Aggregate: **\$ 3,000,000**

Contractor must provide professional liability insurance appropriate for their profession. Architectural and engineering firms must provide coverage for liability arising out of design errors and omissions. The policies shall provide a three (3) year extended reporting period.

C.2 DEDUCTIBLES, SELF-INSURED RETENTIONS OR SELF-INSURED PROGRAMS

Any deductibles, self-insured retentions or self-insured programs must be declared to and approved in advance by the Authority and shall be fully disclosed and identified within the Certificate of Insurance. At the option of the Authority, Company shall reduce the deductible or self-insured retention to a maximum of \$10,000 or eliminate such deductibles or self-insured retentions applicable to claims involving the Authority, its officials and employees, or the Company shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention amount.

The self-insured retention or deductible amount on the policy shall not reduce the amount of collectible limits of liability. Any policy of insurance that either specifies self-insurance or a self-insured retention or that is maintained by Company shall contain a provision to the effect that the insolvency or bankruptcy of the insured shall not relieve the insurance company of any obligation under the policy.

C.3 OTHER INSURANCE PROVISIONS

The required insurance shall contain the following additional provisions:

C.3.1 ADDITIONAL INSURED

The Memphis-Shelby County Airport Authority, including the Authority's commissioners, officers, employees and agents, shall each be included as additional insured on Company's Commercial General Liability, Pollution Liability, Auto Liability, and Umbrella Liability policies with respect to claims or liabilities arising from, or connected with Company's work or operations. The additional insured endorsements shall be at least as broad as the current edition of the Insurance Services Offices forms *CG 20 10@* and *CG 20 37@*.

C.3.2 PRIMARY COVERAGE

Company's required insurance coverage, including umbrella liability, shall be primary insurance, and any insurance or self-insurance maintained by the Authority shall be in excess of and non-contributory with Company's insurance.

C.3.3 SEVERABILITY OF INTEREST

Except with respect to the limits of insurance, Company's required insurance shall apply separately to each insured or additional insured.

C.3.4 WAIVER OF SUBROGATION

To the fullest extent permitted by law, Company agrees to waive all rights of subrogation against the Authority, including the Authority's commissioners, officers, employees and agents and shall cause each of its contractors and subcontractors to waive their rights of subrogation against the Authority, including the Authority's commissioners, officers, employees and agents for all costs or expenses, losses, damages, claims, suits or demands, howsoever caused:

- a. To real or personal property, including but not limited to vehicles, equipment, and tools owned, leased or used by the Company or the Company's employees, agents or subcontractors; and
- b. To the extent such loss, damage, claims, suits or demands are covered, or would have been covered, by the required or any other insurance, except professional liability to which this requirement does not apply, maintained by the Company.

This waiver shall apply to all first party property, equipment, vehicle and workers compensation claims, unless prohibited under applicable state statutes, and all third-party liability claims. This waiver shall also apply to all deductibles, retentions or self-insured layers applicable to the required or any other insurance, except professional liability to which this requirement does not apply, maintained by the Company. If necessary, the Company agrees to secure endorsements to the required insurance policies to permit waivers of subrogation in favor of the Authority as required hereunder. The Company further agrees to hold harmless and indemnify the Authority for any loss or expense incurred as a result of the Company's failure to obtain such waivers of subrogation from the Company's insurers.

C.3.5 NOTICE OF CANCELLATION

Should the Company cancel, fail to renew or make changes to any insurance policy required herein, and/or receive advance written notice from the insurer prior to the cancellation, termination, revocation of or any adverse material change to any insurance coverage required hereunder, the Company shall immediately notify the Authority in writing of same. If any of the insurance is cancelled, the Company shall cease operations until such insurance can be provided.

C.3.6 ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers authorized to do business in the State of Tennessee having an A- or better rating and a Financial Size Category of "Class VII" or higher according to the most current edition of Best's Key Rating Guide.

C.3.7 VERIFICATION OF COVERAGE

The Company shall furnish the Authority with a certificate of insurance evidencing the required coverage prior to the commencement of work or operations. The Company agrees to submit an insurance certificate(s) such that the Authority has a certificate evidencing current required coverage at all times. The certificates are to be signed by a person authorized by the insurer(s) to bind coverage on Company's behalf. **Copies of endorsements providing coverage for additional insureds, primary, non-contributory coverage, permitting waiver of subrogation, and earlier notice of cancellation shall also be provided to the Authority.** Renewal certificates shall also be provided to the Authority prior to the expiration of the required insurance policies.

If required by the Authority's legal counsel, the Company agrees to provide true and certified copies of the required insurance policies within fifteen (15) days of receipt of written request from the Authority. In the event renewal policies have not been issued by insurer(s), the Company agrees to provide complete copies of insurance binders issued to evidence coverage required by this Contract until such time as the actual policies are received from insurer(s).

Failure of the Authority to request such certificates or other evidence of Company's compliance with insurance requirements, or failure of the Authority to identify deficiencies from evidence that is provided, shall in no way limit or relieve Company of its obligations to maintain such insurance.

C.3.8 SUBCONTRACTORS

The Company shall require their contractors and subcontractors to maintain same insurance coverage and minimum limits as is herein required of the Company, as well as provide proof of subcontractors' insurance coverage to the Authority.

C.3.9 LEASED EMPLOYEES

Use of leased employees by Company is expressly prohibited without the Authority's prior written permission. If permitted by the Authority, Company shall:

- a. Provide the Lessor with a complete copy of agreement with employee leasing company;
- b. Require leasing company to provide workers' compensation and employers liability insurance with limits in amounts not less than required of Company;
- c. Require leasing company to provide standard Alternate Employer Endorsement WC 00 03 naming the Authority as alternate employer on leasing company's workers' compensation and employers liability policy;
- d. Require leasing company to provide waiver of subrogation in favor of Lessor on leasing company's workers' compensation insurance policy; and
- e. Provide the Lessor with a copy of leasing company's certificate of insurance, with endorsements, evidencing the required coverage.

C.3.10 NO REPRESENTATION OF COVERAGE ADEQUACY

In specifying minimum Company insurance requirements, the Authority does not represent that such insurance is adequate to protect Company for loss, damage or liability arising from its work. Company agrees that it is Company's responsibility to identify its own risks and protect itself accordingly and understands that the Authority accepts no liability for any such uninsured risks howsoever arising.

The insurance requirements set forth in minimum amounts shall not be construed to relieve Company for liability in excess of such coverage, nor shall it preclude the Authority from taking such other actions as is available to it under any other provision of the Contract. Any acceptance of certificates of insurance by the

Authority shall in no way limit or relieve Company of its duties and responsibilities under the Contract, including the duty to indemnify and hold harmless the Authority.

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EXHIBIT D

**REQUIRED CONTRACT PROVISIONS FOR AIRPORT IMPROVEMENT
PROGRAM AND FOR OBLIGATED SPONSORS**

Federal Laws and regulations require that recipients of federal assistance include contract provisions in certain contracts without modification. The provisions in this section apply to this Agreement. The Company shall incorporate the applicable provisions, as indicated in this section, in all of the subcontracts that it enters into for work to be performed related to this Agreement.

Certain provisions must be included in all sponsor contracts, regardless of *whether or not* the contracts are federally-funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

1 GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to 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 disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subtier 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. If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the Contractor. The above provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration.

2 TITLE VI COMPLIANCE WITH NON-DISCRIMINATION REQUIREMENTS

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 Acts 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 Nondiscrimination Acts and Authorities, 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 Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

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 Nondiscrimination Acts And Authorities 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 2.1 through 2.6 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 subcontract 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.

3 TITLE VI LIST OF PERTINENT NON-DISCRIMINATION ACTS AND AUTHORITIES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- (2) 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- (3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- (4) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- (5) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- (6) Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- (7) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- (8) Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- (9) The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- (10) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- (11) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- (12) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

4 FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation 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 contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

5 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.