

**REQUEST**

**FOR**

**BIDS**

***FIRE SUPPRESSION SYSTEM INSPECTION SERVICES***

***RFB NUMBER 24-0017***

**DUE DATE:**

**AUGUST 8, 2024**

## TRANSMITTAL LETTER

July 2, 2024

Dear Respondent,

The Memphis-Shelby County Airport Authority (Authority) is seeking a qualified Respondent to provide Fire Suppression System Inspection Service for the Authority. This Request for Bids (RFB) is under the direction of the Maintenance Department.

The Procurement Department is responsible for coordinating all communications between the Authority and Respondents. The RFB limits the manner, method, and type of communications that the Authority and Respondents may have once an RFB process is initiated to ensure that the process is fair and impartial. Please review the RFB 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](http://www.flymemphis.com), and Respondents are responsible for checking the Authority website up to the time of the RFB submission deadline.

The Authority reserves the right to reject any or all responses to this RFB 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 RFB, 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 considering 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 RFB, the RFB 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 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 BIDS TIMELINE, COMMUNICATIONS AND PROCESS

### 2.1 RFB Timeline

While this timeline sets forth important dates for this Request for Bids (RFB) process, the entire RFB 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 RFB Documents
July 18, 2024	Questions Due from Respondents by 4:30 p.m.
July 25, 2024	Questions and Answers posted on Authority website by 4:30 p.m.
August 8, 2024	Response Due to Authority by 2:00 p.m.
November 1, 2024	Anticipated Contract Commencement Date

The terms “Purchase Order” and “Contract” in this RFB shall be interchangeable.

### 2.2 Communication with the Authority during this RFB

The Authority has designated Kenneth Parrish, ACE Director of Procurement, to be responsible for coordinating communications between the Authority and Respondents. Respondents should direct all communications to the Procurement Department via email at [Bids@flymemphis.com](mailto: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 RFB 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 RFB. This restriction on communication will govern until the RFB process has been completed and a contract has been fully executed for the 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](http://www.flymemphis.com). Respondents are responsible for checking the Authority's website up to the time of the RFB submission deadline.

### **2.4 Questions Regarding RFB**

Questions regarding this RFB must be submitted in written form via email to Kenneth Parrish, ACE at [Bids@flymemphis.com](mailto:Bids@flymemphis.com). Questions will be accepted until 4:30 PM, July 18, 2024. Answers will be provided by 4:30 p.m., July 25, 2024. Answers will only be posted on the website, [www.flymemphis.com](http://www.flymemphis.com).

### **2.5 RFB and Response Submissions**

A copy of this RFB will be available on the Authority's website, [www.flymemphis.com](http://www.flymemphis.com)

Respondents shall prepare responses in compliance with all the instructions outlined in this RFB, 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 "Request for Bids," "Fire Suppression System Inspection Service" and "RFB Number 24-0017" 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 RFB.

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 8, 2024:**

Procurement Department  
Memphis-Shelby County Airport Authority  
4150 Louis Carruthers Drive  
Memphis, Tennessee 38118  
Attn: Request for Bids, Fire Suppression System Inspection Service,  
RFB Number 24-0017

Responses to all Request for Bids will be opened and publicly read thirty (30) minutes after the response deadline via Microsoft Teams.

Join Teams Meeting  
Meeting ID: 219 059 219 771  
Passcode: y2PVB4  
Download Teams | Join on the web  
Or call in (audio only)  
+1 872-242-8851, United States, Chicago  
Phone Conference ID: 784 801 965#

The Authority reserves the right to extend the opening date or time provided no RFB 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 RFB**

The Authority reserves the right to reject any or all responses to this RFB, 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 RFB 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 RFB, or for any other reason as determined by the Authority. The Authority further reserves the right to cancel this RFB process at any time.

## **2.7 RFB to Bind Bidder**

The response must contain the signature of a duly authorized officer of the Bidder with the legal right to bind the Bidder. All submitted responses shall be binding for a period of one hundred

twenty (120) days from the response submission deadline. Further, the successful Bidder will be bound by the Bid prices and terms quoted pursuant to the Contract (Contract) between the successful Bidder and the Authority, more than one hundred twenty (120) days.

**2.8 Response Modification or Withdrawal**

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

**2.9 Response Costs**

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

**2.10 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 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 regarding the application, meaning, or interpretation of the specifications contained herein will be considered after the opening of the subject RFB.

**3 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.

#### **4 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 considering the dollar-value of the bid that is received in relation to such expenditures and pursuant to the terms and conditions that are outlined in the adopted policy as amended. If applicable, the Authority may also give 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.

#### **5 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS**

##### **5.1 Overview**

The Authority operates a federal Disadvantaged Business Enterprise (DBE) Program<sup>1</sup> 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.

- 5.2 *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. Disadvantaged Business Enterprise (DBE) Required Forms***

**The following documents must be submitted with your response to this solicitation:**

##### **5.2.1 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,

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<sup>1</sup> 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.



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 15.1 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 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.

## **5.2.2 Information on All Firms Providing Responses**

The form provided in Section 15.2 must be completed by respondent.

## **5.3 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:

### **5.3.1 Voluntary Disclosure of Respondent Data**

If submitted, the form provided in Section 15.3 must be completed by respondent.

## **5.4 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.

#### **5.5 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.

#### **5.6 DBE Certification**

The Authority is a certifying member of the Tennessee Department of Transportation Unified Certification Program (TNUCP). 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](http://www.flymemphis.com) or at [www.tdot.tn.gov](http://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 certifying member in accordance with 49 CFR Part 26. Out of state firms may be granted reciprocity by a TNUCP 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.

### **5.7 Identification of Contract Goal and Requirements**

For this Contract, the DBE goal is established as 0%. 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.

### **5.8 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 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.

### **5.9 Administrative Reconsideration**

Within 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](mailto: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.

### **5.9 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. 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.

**5.10 Sanctions for Non-Compliance<sup>2</sup>**

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.

**5.11 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.

**5.12 Prompt Payment / Retainage**

The successful Respondent agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than fifteen (15) days from the receipt of each payment the successful Respondent receives from MSCAA. A subcontractor's work is

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<sup>2</sup> The Authority applies Sanctions for Non-Compliance to its BDDP.

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.

### **5.13 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 prior 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 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 reward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

### **5.14 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.

## **6 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.

## **7 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 17 below.

## **8 BOND REQUIREMENTS**

### **8.1 Surety**

Any bond provided to the Authority in connection with the response to this RFB 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.

### **8.2 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.

### **8.3 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 RFB shall be duly issued by an insurer or corporate surety on a bond form provided by the Authority in the Request for Bids Forms section below, 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 RFB 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.

### **8.4 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.

### **8.5 Contractor's Responsibility**

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

## **9 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 with 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.

## **10 SECURITY AND ACCESS**

### **10.1 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's 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, always 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 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. The 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.

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 the accuracy of that report monthly.

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 a request must be in the 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

### **10.2 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 9 Security and Access, to access areas beyond these checkpoints.

### **10.3 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 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.

## **11 SCOPE OF SERVICES**

Provide fire suppression system inspection and certification services in compliance with monthly, quarterly, annual, and 5-year NFPA inspection requirements for fire suppression systems at Memphis International Airport. This will cover building code occupancy requirements for the terminal building, Mission Support Center (MSC), Centralized Deicing Facility (CDF), cargo buildings, ARFF, airport parking facilities, and any other airport owned facility that has a fire suppression system. Federal, State, and Local building codes require these systems to be checked on a set schedule and certified by a licensed company to maintain occupancy permit.

## **12 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 Bidders shall structure their response by submitting the response using the forms provided in Section 14 below and submitting data as requested in the following sections:

### **12.1 Bidder Information Form**

Bidders must submit the Bidder Information Form provided in Section 14 below.

### **12.2 Specification Acceptance Form**

Using the form provided in Section 14.3, indicate No Exception or Exception for each item. Each item must be initialed in the blank corresponding to No Exception or Exception.

### **12.3 Exceptions**

The bidder must state in detail, on the Exception to Specifications form provided in Section 14.4 below and referencing the specified item, any proposed equivalent item including Manufacturer, Item Number, and brief description.

### **12.4 Price Schedule**

Using the Price Schedule form provided in Section 14.6 below, Bidder must furnish a bid price for the specified item(s). In the event of a discrepancy between a unit price bid and an extended total in the bid proposal, the extended price shall govern.

Respondents shall also include a USB drive with a complete digital copy of their response.

### **12.5 Proprietary Data**

In cases where the Bidder wants technical data included in the Bid to be used only for purposes of evaluation, it must be specifically identified using the following endorsement:

The data in this Bid response shall not be used or disclosed, except for evaluation purposes and except as required by law. If a Contract is awarded as a result of, or in connection with, the submission of this response, the Authority shall have the right to use or disclose this technical data to the extent provided in the Contract. This restriction does not limit the Authority's right to use or disclose any technical data, which is not proprietary to the submitter or is obtained from another source without restriction.

Using the form provided in Section 14.7, please list and describe in detail the material claimed to be proprietary. Page references or general statements will not be acceptable

**12.6 DBE Forms**

Respondent shall also include in this tab all required DBE documents/forms as stated in Section 5 above.

**13 AWARD**

**13.1 Authority's Right to No Award or Partial Award**

Award will be made to the Bidder(s) with the lowest and most responsive Bid, if awarded. The Authority reserves the right to reject all responses, reject portions of any response, or accept the response(s) deemed most advantageous to the Authority.

**13.2 Anticipated Contract Date**

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

**14 PAYMENT TERMS**

**14.1 Payment and Billing Requirements**

**14.1.1 Invoice Submittal**

Invoices for payments related to Equipment received under the Contract shall be presented as described below. Payment will be made only for correct invoices presented with a complete itemization of the charges related to the Equipment delivered. Incorrect invoices will be returned for correction, unpaid. All invoices must include the contract number and/or the purchase order number. The successful Bidder must email the invoice to the email address below:

Finance Department – [acctpayable@flymemphis.com](mailto:acctpayable@flymemphis.com)

**14.1.2 Payment Terms**

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

**14.1.3 Taxes**

The Authority is exempt from local, State, and Federal taxes. Tax certificates will be issued to the successful Bidder upon request.

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**15 REQUEST FOR BIDS FORMS**

**15.1 Bidder 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: \_\_\_\_\_



**15.2 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 us, 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 Fire Suppression System Inspection Service, Bid Number 24-0017, and more fully described in said Request for Bids and made a part hereof and incorporated herein by reference; and

WHEREAS it is one of the conditions of the Request for Bids 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 more than 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

\_\_\_\_\_  
Bidders Name

\_\_\_\_\_  
(Surety)

By: \_\_\_\_\_  
Signature of Principal

By: \_\_\_\_\_  
Signature of Attorney-in-Fact

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

**15.3 Specification Acceptance Form (Required)**

**Bidder must initial each paragraph, indicating either compliance with or exception to each specification.**

	CRITICAL	NO EXCEPTION	EXCEPTION
<b>1 FIRE SUPPRESSION SYSTEM INSPECTION SERVICE</b>			
<b>1.1 GENERAL</b>			
<b>1.1.1</b> The inspections shall be carried out in such manner to maintain 100% compliance with all National Fire Protection Association (NFPA), Memphis Fire Department, state and local codes, ordinances, and standards.	*	_____	_____
<b>1.1.2</b> The inspection shall be implemented in accordance with procedures meeting or exceeding those established in NFPA 25, current edition and in accordance with the manufacturer's instructions.	*	_____	_____
<b>1.1.2.1</b> Tasks shall be performed by personnel who have developed competence through training and experience.	*	_____	_____
<b>1.1.3</b> The contractor shall notify the alarm receiving facility before testing or shutting down a system or its supply.	*	_____	_____
<b>1.1.3.1</b> The notification shall include the purpose for the shutdown, the system or components involved, and the estimated time of shutdown.	*	_____	_____
<b>1.1.3.2</b> The alarm receiving facility shall be notified when the system, supply, or component is returned to service.	*	_____	_____
<b>1.1.4</b> All components and systems shall be tested to verify that they function as intended	*	_____	_____
<b>1.1.4.1</b> The frequency of tests shall be in accordance with NFPA 25, current edition.	*	_____	_____
<b>1.1.4.2</b> Fire protection system components shall be restored to full operational condition following testing including reinstallation of plugs and caps for auxiliary drains and test valves	*	_____	_____

	CRITICAL	NO EXCEPTION	EXCEPTION
<b>1.2 CONTRACTOR RESPONSIBILITIES</b>			
<b>1.2.1</b> All testing shall be performed by a licensed/certified inspector having no less than seven (7) years' experience. Supporting documentation for experience shall be submitted with bid documents. The contractor shall provide testing personnel who are familiar with the requirements and recommendations of NFPA 25 and the operation of fire sprinkler systems.	*	_____	_____
<b>1.2.2</b> Following notice to proceed, the contractor shall submit a proposed inspection schedule to the Manager of Building Maintenance for approval. The schedule shall include facility locations, date of planned inspections, and the name of each technician to perform each inspection. The contractor shall notify the Manager of Building Maintenance immediately concerning scheduling changes. The contractor shall notify the Manager of Building Maintenance a minimum of seventy-two (72) hours prior to performing a service.	*	_____	_____
<b>1.2.3</b> All lines to be flushed shall be connected by hose to nearest available drain(s). Under no circumstances will Contractor be permitted to flush lines to any floor or parking deck.		_____	_____
<b>1.2.4</b> Contractor is responsible for furnishing all tools, supplies and equipment necessary to perform inspections.		_____	_____
<b>1.3 AUTHORITY'S RESPONSIBILITIES</b>			
<b>1.3.1</b> The Authority shall provide access to all areas of the facility to allow required testing and inspection throughout the facility.		_____	_____
<b>1.3.2</b> The Authority shall provide the most up to date drawings of each facility's fire sprinkler system components.		_____	_____

	CRITICAL	NO EXCEPTION	EXCEPTION
<b>1.4 RECORDS AND REPORTS</b>			
<b>1.4.1</b> Following the completion of each inspection, reports shall be completed for each individual facility together with a memo including comments and recommendations. A copy of each report shall be made available to the Manager of Building Maintenance. This documentation shall be provided no later than three (3) weeks following the completion of the site inspection and shall be in an organized, legible format. Reports shall include but not limited to all applicable American Fire Sprinkler Association or approved equal inspection forms	*	_____	_____
<b>1.4.2</b> The contractor shall submit one package, after all sites have been visited, containing all original invoices itemizing the service performed at each site. The invoice shall include the contract number, facility name, type of service performed at each facility, date of service for each facility, and the invoice amount for each facility.	*	_____	_____
<b>1.5 PERFORMANCE</b>			
<b>1.5.1</b> Sites			
<b>1.5.1.1</b> Terminal Building		_____	_____
<b>1.5.1.2</b> Parking Garage		_____	_____
<b>1.5.1.3</b> Ground Transportation Center		_____	_____
<b>1.5.1.4</b> Cargo Building		_____	_____
<b>1.5.1.5</b> ARFF Facility		_____	_____
<b>1.5.1.6</b> Airfield Maintenance Old Bus Barn		_____	_____
<b>1.5.1.7</b> Democrat Square		_____	_____

	CRITICAL	NO EXCEPTION	EXCEPTION
<b>1.5.1.8</b> Democrat Square		_____	_____
<b>1.5.1.9</b> Democrat Square		_____	_____
<b>1.5.1.10</b> MSC Building		_____	_____
<b>1.5.1.11</b> Main New Concourse		_____	_____
<b>1.5.1.12</b> Democrat Warehouse		_____	_____
<b>1.5.1.13</b> Consolidated Deicing Facility (CDF) Building		_____	_____
<b>1.5.2</b> Inspection Periods			
<b>1.5.2.1</b> Monthly Inspections			
<b>1.5.2.1.1</b> Monthly Inspections shall be performed each month.		_____	_____
<b>1.5.2.2</b> Quarterly Inspections			
<b>1.5.2.2.1</b> Quarterly Inspections shall be performed during the months of February, May, August, and November		_____	_____
<b>1.5.2.3</b> Annual Inspections			
<b>1.5.2.3.1</b> Annual Inspections shall be performed during the month of May		_____	_____
<b>1.5.2.4</b> Five Year Inspections			
<b>1.5.2.4.1</b> Five Year Inspections shall be performed once each 5 years in the month of May		_____	_____

**All elements of the scope of services identified by asterisk (\*) are considered critical and exceptions to the scope of services are not allowed. Responses having exceptions to such critical elements shall be deemed non-conforming to the RFB. All exceptions to the scope of services shall be listed on the “Exceptions to Scope of Services” form found in Section 14.4**

**All exceptions to Specifications shall be listed on the “Exceptions to Specifications” form found in Section 14.4.**

**This space intentionally left blank**

**15.4 Exception to Specifications Form (Required)**

**Must be returned with response.**

Exceptions must be stated on this form in addition to providing reference literature and other relevant data.

The undersigned Bidder hereby certifies that its response is fully compliant with the specifications except for the following:

RFB Specification	Detailed Exception

(Use additional pages if needed)

Except as noted above, the undersigned certifies full compliance with the specification stated in the RFB. It is understood and agreed that in the event the items delivered upon award are not compliant, the Bidder will be required to take whatever steps necessary to ensure full compliance at no additional cost to the Authority.

**Failure to complete detailed exceptions on this form will result in disqualification of your response.**

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**15.5 Fire Sprinkler Equipment Summary**

Facility	Address	Wet Systems	Dry Systems
Terminal	2491 Winchester	11	2
Parking Garage	2491 Winchester	0	30
Ground Transportation Center	2491 Winchester	0	0
Cargo Building	4121 Runway Road	1	0
ARFF Facility	2785 Rudder Road	1	0
Airfield Maintenance Old Bus Barn	2836 Hangar	1	0
Democrat Square	3130 Tchulahoma	1	0
Democrat Square	3140 Tchulahoma	1	0
Democrat Square	3150 Tchulahoma	1	0
MSC Building	4150 Louis Carruthers Dr.	1	0
New Concourse	2491 Winchester Rd.	10	9
Democrat Warehouse	3369, 3389, 3409 Democrat Rd.	3	0
Consolidated Deicing Facility (CDF) Building	4490 Louis Carruthers Dr.	1	0



**15.6 Price Schedule (Required)**

The Company shall provide Fire Suppression System Inspection Service in accordance with the Scope of Services included in Section 14.3 for the prices shown in the tables below.

Monthly Inspections (8 Per Year)						
Facility	Address	Bid Price				
		Year One	Year Two	Year Three	Year Four	Year Five
Terminal	2491 Winchester					
Parking Garage	2491 Winchester					
Ground Transportation Center	2491 Winchester					
Cargo Building	4121 Runway Road					
ARFF Facility	2785 Rudder Road					
Airfield Maintenance Old Bus Barn	2836 Hangar					
Democrat Square	3130 Tchulahoma					
Democrat Square	3140 Tchulahoma					
Democrat Square	3150 Tchulahoma					
MSC Building	4150 Louis Carruthers Dr.					
New Concourse	2491 Winchester Rd.					
Democrat Warehouse	3369, 3389, 3409 Democrat Rd.					
CDF Building	4490 Louis Carruthers Dr.					
Total Annual Price						

Quarterly Inspections (3 Per Year)						
Facility	Address	Bid Price				
		Year One	Year Two	Year Three	Year Four	Year Five
Terminal	2491 Winchester					
Parking Garage	2491 Winchester					
Ground Transportation Center	2491 Winchester					
Cargo Building	4121 Runway Road					
ARFF Facility	2785 Rudder Road					
Airfield Maintenance Old Bus Barn	2836 Hangar					
Democrat Square	3130 Tchulahoma					
Democrat Square	3140 Tchulahoma					
Democrat Square	3150 Tchulahoma					
MSC Building	4150 Louis Carruthers Dr.					
New Concourse	2491 Winchester Rd.					
Democrat Warehouse	3369, 3389, 3409 democrat Rd.					
CDF Building	4490 Louis Carruthers Dr.					
Total Annual Price						

Annual Inspections (1 Per Year)						
Facility	Address	Bid Price				
		Year One	Year Two	Year Three	Year Four	Year Five
Terminal	2491 Winchester					
Parking Garage	2491 Winchester					
Ground Transportation Center	2491 Winchester					
Cargo Building	4121 Runway Road					
ARFF Facility	2785 Rudder Road					
Airfield Maintenance Old Bus Barn	2836 Hangar					
Administration and Support Facility	3505 Tchulahoma Road					
Democrat Square	3130 Tchulahoma					
Democrat Square	3140 Tchulahoma					
Democrat Square	3150 Tchulahoma					
MSC Building	4150 Louis Carruthers Dr.					
New Concourse	2491 Winchester Rd.					
Democrat Warehouse	3369, 3389, 3409 Democrat Rd.					
CDF Building	4490 Louis Carruthers Dr.					
Total Bid Price						

Five Year Inspections						
Facility	Address	Bid Price				
		Year One	Year Two	Year Three	Year Four	Year Five
Terminal	2491 Winchester					
Parking Garage	2491 Winchester					
Ground Transportation Center	2491 Winchester					
Cargo Building	4121 Runway Road					
ARFF Facility	2785 Rudder Road					
Airfield Maintenance Old Bus Barn	2836 Hangar					
Democrat Square	3130 Tchulahoma					
Democrat Square	3140 Tchulahoma					
Democrat Square	3150 Tchulahoma					
MSC Building	4150 Louis Carruthers Dr.					
New Concourse	2491 Winchester Rd.					
Democrat Warehouse	3369, 3389, 3409 Democrat Rd.					
CDF Building	4490 Louis Carruthers Dr.					
Total Bid Price						

**15.7 Proprietary Data**

In cases where the Bidder wants technical data included in the Bid to be used only for purposes of evaluation, it must be specifically identified in accordance with Section 11.5 above.

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Bid Summary					
Inspection Type	Total Bid Price				
	Year One	Year Two	Year Three	Year Four	Year Five
Monthly					
Quarterly					
Annual					
Five Year					
Total Bid Price					

By signing this RFB response and participating in this process, the undersigned warrants that he/she has read, understands and agrees to the Terms and Conditions contained in this RFB document and has full authority to submit the written and verbal responses on behalf of the entity for whom they are acting herein and that the information submitted to the Authority in their response is true, accurate and complete to the fullest extent possible and to the best of his/her knowledge and abilities.

Bidder: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ email: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**16 DBE FORMS**

**16.1 DBE Assurance Statement/Letter of Intent (Required)**

Submit on Company Letterhead for each DBE Subcontractor

DBE ASSURANCE STATEMENT/LETTER OF INTENT		
<b><u>RESPONDENT:</u></b>		
Name of Firm: _____		
Address: _____		
City: _____	State: _____	Zip: _____
Telephone: _____		
<b><u>DBE:</u></b>		
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 dollar value of this work is \$_____, which is _____% of the total proposal.		
<b>AFFIRMATION</b>		
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 <sup>nd</sup> /3 <sup>rd</sup> Tier Subcontractor and Title	Date	Name
<b>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. If the Respondent does receive award of the prime contract, Respondent commits to using the DBE subcontractor listed and described above to meet the DBE contract goal, pursuant to 49 CFR Part 26.</b>		
By: _____		
Signature of Respondent and Title	Date	Name

**16.2 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*

\*Please 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

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



**16.3 Voluntary Disclosure of Respondent Data (Voluntary)**

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

**VOLUNTARY DISCLOSURE OF RESPONDENT DATA**

For Title VI Compliance, the Authority asks for **voluntary disclosure** of the following information:

Gender:	Male	_____
	Female	_____
Race:	Caucasian	_____
	Black American	_____
	Hispanic American	_____
	Native American	_____
	Subcontinent Asian American	_____
	Asian-Pacific American	_____
	Other (please specify)	_____



Received: _____ Sr. Manager of BDD	Date: _____	Project Name: _____ Project No.: _____
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**DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS FOR SUBCONTRACTS**

Memphis-Shelby County Airport Authority (MSCAA) operates a federal Disadvantaged Business Enterprise (DBE) Program to ensure full and fair opportunities in MSCAA contracting for businesses owned by socially and economically disadvantaged individuals, which is governed by 49 CFR Part 26. This document sets forth DBE provisions that must be included in all contracts and subcontracts for the subject project as required by federal regulations. **A SIGNED COPY MUST BE (1) SUBMITTED TO THE MSCAA DBE LIAISON OFFICER AND (2) INCLUDED IN YOUR SUBCONTRACT AS AN EXHIBIT TO ANY UNDERLYING AGREEMENT FOR THE SUBJECT PROJECT.**

The undersigned parties agree and acknowledge that this document shall be deemed to form, be read and construed as, as if stated verbatim therein, part of any agreement between the parties related to the subject project. This document is an agreement wherein the parties accept, agree to, and incorporate federally mandated contractual provisions into any underlying agreement for the subject project as well as acknowledge applicable federal and local DBE rules and regulations. **THE TEXT CONTAINED IN THIS DOCUMENT CANNOT BE REVISED, ALTERED, OR OTHERWISE MODIFIED BY THE PARTIES. THIS IS A FINAL DOCUMENT.**

Any subcontract for the subject project shall be governed by regulations set forth in 49 CFR Part 26 and MSCAA DBE program rules and regulations, including but not limited to the following:

- Assurance (49 CFR 26.13(b)):** The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to: 1) Withholding monthly progress payments; 2) Assessing sanctions; 3) Liquidated damages; and/or 4) Disqualifying the contractor from future bidding as non-responsible.
- Prompt Payment (49 CFR 26.29):** The prime contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 15 days after the prime contractor's receipt of payment for that work 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 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 and written approval of the MSCAA. Retainage will not be withheld on this project. No retainage will be withheld by the MSCAA from progress payments due the prime contractor. Retainage by the prime or subcontractors is prohibited. No retainage will be held by the prime from progress due subcontractors.
- Termination/Substitution (49 CFR 26.53):** The prime contractor may not terminate or substitute any approved DBE subcontractor listed in the Assurance Statement without prior written consent of MSCAA. The prime contractor must follow the procedures set forth in 49 CFR 26.53(f).
- Counting Participation:** DBE participation in a contract must be counted in accordance with 49 CFR 26.55 and applicable guidance.
- DBE Independence:** An independent business is one the viability of which does not depend on its relationship with another firm or firms. Determination of ownership and control of a DBE is governed by 49 CFR 26.71.
- DBE Liaison Officer (DBELO):** For DBE-related questions, issues, and disputes, please contact the MSCAA DBELO (contact information found at <https://flymemphis.com/business-diversity-development-program/>). The current DBELO is Regina Armstrong, who may be reached at 901-922-0167 or [armstrong@flymemphis.com](mailto:armstrong@flymemphis.com).

This document shall control and supersede any inconsistency, conflict or ambiguity contained in any underlying agreement between the parties for the subject project as to the procedures, processes, or subject matter set forth in this document or otherwise governed by 49 CFR Part 26 and/or other applicable MSCAA DBE program rules and regulations.

PRIME CONTRACTOR: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

SUBCONTRACTOR: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

**16 SAMPLE CONTRACT**

**CONTRACT NUMBER 24-0017**

**FOR**

**FIRE SUPPRESSION SYSTEM INSPECTION SERVICE**

**BY AND BETWEEN**

**THE MEMPHIS-SHELBY COUNTY AIRPORT AUTHORITY**

**AND**

**[VENDOR NAME]**

**THIS CONTRACT** made and entered into this 1st day of November 2024 (the “Contract” or “Agreement”), by and between **[VENDOR NAME]** (“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**

The company shall provide Fire Suppression System Inspection Service (“Services”) 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 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 the Company within thirty (30) days of receipt of a properly submitted and approved invoice with a complete itemization of the charges, including 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 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.

Any violation or breach of the terms of this Contract on the part of the Company or their subcontractors may result in the termination of this Contract or such other action that may be necessary to enforce the rights of the Parties to this Contract. The duties and obligations imposed by the Contract Documents, as defined in the "Contract Documents" section below, and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

### **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 has not 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. The company shall prepare an accounting of the services performed and money spent by the

Company up to the effective date of termination and shall return to the Authority any remaining sums within thirty (30) days of this 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 the 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. Sue 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 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 the Company should subcontract, assign, or transfer any part of the 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 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. The 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. Further, any fees paid to any person or entity by the Company for assistance in obtaining this Contract with the Authority have been fully disclosed to the Authority in Company's Response, as defined in the "Incorporation of Company's Response" section below and supplemented in writing as necessary throughout this process.

## **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. Considering 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. The 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 arising from Company's activities at the Airport. Company also agrees to comply with any request made by the Authority for reimbursement of costs associated with any damage to Airport property arising from the use of the Airport by Company or any of Company's representatives, managers, employees, agents, contractors, subcontractors, licensees, or invitees or from the conduct of same. This provision shall survive the termination of this Contract.

## **19 AUDIT**

The Authority shall have the right to audit this Contract along with 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 after, and regardless of, this Contract's expiration or termination and until they are fully satisfied or by their nature expire.

## **22 INCORPORATION OF AUTHORITY'S REQUEST FOR BIDS**

The Authority's Request for Bids 24-0017, shall be incorporated in its entirety herein by reference. Accordingly, the Company shall be obligated to meet all requirements including, but not limited to, DBE requirements and Performance Bonds as described in the Request for Bids; provided, however, that where an express provision of this Contract conflicts with any provision of the Request for Bids, this Contract shall control.

## **23 INCORPORATION OF COMPANY'S RESPONSE**

Company's timely response to the Authority's Request for Bids ("Company's Response") shall be incorporated in its entirety herein by reference. The Company and Authority acknowledge that the Company's Response was a valuable consideration in the award of this Contract to the Company and is an authoritative reference for understanding the intention of the Parties to this Contract. Accordingly, Company shall be obligated to meet all specifications described in Company's Response; provided, however, that any conflict between an express provision of this Contract and any provision of Company's Response shall be resolved in the following order: (1) the provisions of this Contract, (2) Scope of Services, and (3) Schedule of Compensation.

## **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



## **28 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.

## **29 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.

**The remainder of this page was left blank intentionally.**

**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 NAME]**

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

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

Title: President and CEO

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

**Approved as to Content:**

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

Title: Vice President of Operations

**Reviewed and Approved:**

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

Title: Director of Maintenance

**Reviewed and Approved:**

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

Title: Senior Manager of Business Diversity Development

**Approved as to Form and Legality**

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

Title: General Counsel

**EXHIBIT A**

**SCOPE OF SERVICES**

INSERT SCOPE OF SERVICES

**EXHIBIT B**

**SCHEDULE OF COMPENSATION**

INSERT 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  
**\$1,000,000** products and completed operations aggregate.  
**\$2,000,000** general aggregate

**C.1.2 AUTOMOBILE LIABILITY**

The 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'.. If Company's scope of services includes the transportation of hazardous materials to or from Airport premises, as determined by the Authority, Company shall also include pollution coverage by procuring and

continuously maintaining current editions of standard endorsements **MCS-90** and **CA 99 48**, or their equivalents.

**\$1,000,000** combined single limit each accident  
**\$1,000,000** if hazardous materials are to be transported.

If Company's scope of services is mandated by State and/or Federal DOT regulations, Company will always follow all applicable mandates.

**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.

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

**\$500,000** for bodily injury by accident  
**\$500,000** for bodily injury by disease  
**\$500,000** 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.1.6 PROFESSIONAL LIABILITY INSURANCE**

Per Claim and in the Annual Aggregate: \$ 1,000,000

Contractors 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**

The company's required insurance coverage, including umbrella liability, shall be primary insurance, and any insurance or self-insurance maintained by the Authority shall be more than and non-contributory with the Company's insurance.

**C.3.3 SEVERABILITY OF INTEREST**

Except with respect to the limits of insurance, the 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 because 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 always evidencing current required coverage. The certificates are to be signed by a person authorized by the insurer(s) to bind coverage on the 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 the 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 the 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 the 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 the Company from loss, damage or liability arising from its work. The company agrees that it is the 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 more than 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 the Company of its duties and

responsibilities under the Contract, including the duty to indemnify and hold harmless the Authority.

**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 the subcontracts that it enters for work to be performed related to this Agreement.

Certain provisions must be included in all sponsor contracts, regardless of *whether* 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 sub tier 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 obliges the Contractor for the period during which the property is owned, used, or possessed by the Contractor and the airport remains obliged 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, regarding 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 act 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 any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter 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 based on 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 with 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.