



METROPOLITAN
KNOXVILLE
AIRPORT
AUTHORITY

Request for Qualifications

For

Architectural Professional Services

At

McGhee Tyson and Downtown Island Airports
Alcoa and Knoxville, TN

Issue Date:

August 8, 2021

Revised to include Addendum No. 1:

August 16, 2021

SOQ Due Date:

September 10, 2021

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY
P.O. Box 15600
Knoxville, TN 37901
Phone: (865) 342-3001

**REQUEST FOR QUALIFICATIONS (RFQ)
METROPOLITAN KNOXVILLE AIRPORT AUTHORITY
Architectural Professional Services
Addendum No. 1
August 16, 2021**

ITEM NO. 1 – QUESTIONS RECEIVED

Question 1

Please explain the difference in the architectural services expected between the RFQ advertised on March 21, 2021 and the current one advertised on August 8, 2021. The one in March was for “Professional Airport Architectural, Engineering, and Planning Consultant Services” this RFQ is for “Professional Airport Architectural and Planning Consultant Services”.

Answer

The March 21 RFQ was for primarily airside engineering services where certain projects may require minimal architectural support. The currently advertised RFQ is for primarily architectural services related to both airside and landside projects.

Question 2

The RFQ states: “Projects may include airside/landside design, planning services, and construction related services”. Does this include Terminal projects?

Answer

Yes, terminal building projects may be included in the services requested.

ITEM NO. 2 – RFQ CHANGES/ADDITIONS

Revise: Schedule for Selection and Award
August 18 Final date for questions or clarifications submission
TO
August 25 Final date for questions or clarifications submission

Revise: Explanation by Addendum Only
All inquiries must be received prior to **4:30 PM Wednesday, August 18, 2021.**
TO
All inquiries must be received prior to **4:30 PM Wednesday, August 25, 2021.** All addendums will be posted to <https://flyknoxville.com/business-at-tys/>.

Insert the following after “Federal Aviation Administration Provisions” section:

Affirmative Action

To the extent the Selected Company engages in construction work as defined by 41 C.F.R. § 60-1.3, the following notice shall apply and the term "Contractor" shall mean the Selected Firm:

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity

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

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

Timetables

Goals for minority participation for each trade: 6.6%

Goals for female participation in each trade: 6.9%

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

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the **Contractor shall make a good faith effort** to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is Tennessee, Blount, Alcoa.

ITEM NO. 3 – RFQ EXHIBITS

Exhibits A and B added to RFQ.

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY
ARCHITECTURAL PROFESSIONAL SERVICES
REQUEST FOR QUALIFICATIONS

Table of Contents

Notice 3
 Schedule for Selection and Award 3
 No-contact Policy 3
 Title VI Solicitation Notice..... 3
 Reservations by MKAA 4
Summary 4
 Agreement..... 4
 Team 4
 Explanation by Addendum Only 4
 Evaluation Criteria 5
 Statement of Qualifications Content 5
 Submission Procedure 5
 Selection Procedure 6
 Additional Information..... 6
Contractual Requirements..... 6
 Choice of Law 6
 Indemnification 6
 Confidentiality..... 7
 Federal Aviation Administration Provisions 7
 Affirmative Action 7
 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity
 7
 Applicable Federal Provisions: 8
 DBE Program 9
List of Exhibits and Drawings 9

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

Notice

The Metropolitan Knoxville Airport Authority (MKAA) is requesting Statements of Qualifications (SOQ) from interested and qualified Consultants for Professional Airport Architectural and Planning Consultant Services at McGhee Tyson (TYS) and Downtown Island (DKX) Airports for the next five (5) years. Professional, technical, and advisory services are needed for projects identified in the Airport's capital improvement program.

Projects may include airside/landside design, planning services, and construction related services. A copy of the airport's current capital improvement program can be downloaded from

<https://flyknoxville.com/business-at-tys/>.

Schedule for Selection and Award

August 8	RFQ advertised
August 25	Final date for questions or clarifications submission
September 10	Statement of Qualifications due
September - October	Coordinate short list firm visits and presentations
November 1	Anticipated selection announcement

No-contact Policy

MKAA has imposed a no-contact policy on the selection process. The no-contact policy is intended to prohibit any potential proposer from engaging in any direct or indirect lobbying of any Board Member, MKAA staff member, other persons or organization that may be involved in this RFQ process. The no-contact policy is effective between the date this RFQ is issued and the date of the approval of the Agreement for Professional Services by the Board of Commissioners. Questions submitted in writing to the MKAA for clarifications of the information contained in this RFQ are not prohibited by this policy.

Title VI Solicitation Notice

The Metropolitan Knoxville Airport 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 any contract entered into pursuant to this advertisement, disadvantaged

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Reservations by MKAA

To the extent permitted by applicable law, MKAA reserves the right to (i) supplement, amend or otherwise modify the terms of this RFQ, (ii) reject any and all SOQ's, (iii) waive any informality in the RFQ process or parts thereof, (iv) re-solicit SOQ's, and (v) select more than one proposer as a result of the RFQ. MKAA does not guarantee that a firm will be selected to provide services as a result of the RFQ or that an agreement will be successfully consummated with the selected proposer.

Summary

Agreement

The Work will be governed by the MKAA's standard Professional Services Agreement (the "Agreement"), a copy of which is attached hereto as Exhibit A. Firms are advised to carefully read and review the Agreement as they prepare their SOQ's in response to this RFQ. MKAA reserves the right to revise the terms of the Agreement at any time during the RFQ process and to negotiate different terms with the selected firm.

Team

The purpose of this RFQ is the selection of an architectural consulting firm. Any potential sub-consultant teaming for specific projects will be established at the time those services are negotiated.

Explanation by Addendum Only

No interpretation of the meaning of any provision in this RFQ or the correction of any apparent ambiguity, inconsistency, error, or any other matter pertaining to this RFQ shall be made orally. Every request for interpretation or for additional information regarding this RFQ shall be made in writing, via email to Eric Williamson, Senior Airport Engineer, by e-mail at eric.williamson@tys.org with the subject line "**Architectural Professional Services RFQ**". All inquiries must be received prior to **4:30 PM Wednesday, August 25, 2021**. All addendums will be posted to <https://flyknoxville.com/business-at-tys/>.

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

Evaluation Criteria

This qualification based selection process is in accordance with the FAA AC 150/5100-14E and the Tennessee Code Annotated Section 12-4-106. The consulting firm(s) will be selected based on the following five (5) criteria:

1. (25%) Demonstrated experience of the firm in providing similar services for comparable airport projects within previous ten (10) years; particularly Terminal ticket lobby and concourse expansion.

2. (25%) Identification of the project team that will be performing the Work including:

- Qualifications, certifications and other key credentials of each team member;
- Demonstrated experience of each team member on comparable airport projects;

The key personnel identified in this RFQ will be expected to remain assigned for the term of the agreement unless a substitution is agreed to by MKAA.

3. (20%) Describe the firm's experience in Program Management for multi-phase airport expansion programs.

4. (20%) Demonstrate through project experience the firm's ability to interact with other firms under contract to the MKAA and the ability to work closely and effectively with Federal, State and Local government agencies.

5. (10%) Success in including Disadvantaged Business Enterprises (DBE) in professional services contracts and experience in managing DBE participation in construction services contracts. (See 49 CFR, § 26.53)

Statement of Qualifications Content

The SOQ's shall be submitted as no more than fifty (50) 8.5" x 11.0" sized pages in an electronic format. Resumes shall be included in Appendix A. The SOQ's should contain only information relative to the Evaluation Criteria outlined above and must be kept in the same order given above. The maximum allowable fifty (50) page limit does not include Appendix A or formatting/organizing pages such as cover page, table of contents, and section dividers.

Submission Procedure

One (1) electronic copy of the SOQ's should be submitted to bids@tys.org with the subject: **Architectural Professional Services**. The submission must be received at

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

the above email no later than **4:00 p.m. on Friday, September 10, 2021**. All submittals received after this time will be returned unopened and will not be considered. No overhead rate, fees, or any cost information should be identified as part of this submission.

Selection Procedure

After evaluation of the SOQ's, MKAA will short-list firms deemed to have best met the intent of the RFQ. These firms will be scheduled for separate half-day visits/tours of the airport facilities as well as interactions with staff regarding MKAA planning and project programming. MKAA will then coordinate with the firms for the appropriate amount of time needed for the firms to prepare a presentation for the selection committee. The final selection decision from MKAA will likely be within one week of the presentations to the selection committee.

Additional Information

MKAA reserves the right to cancel or modify the terms of this RFQ at any time. MKAA will provide the Respondents with written notice of cancellation or modification.

Contractual Requirements

Choice of Law

The laws of the State of Tennessee must govern the operation and enforceability of any Agreement resulting from this RFQ. Any action or legal proceeding arising out of or related to any Agreement resulting from this RFQ must be brought in the state courts of Knox County, Tennessee, or in the federal court in the district where the Airport is located.

Indemnification

MKAA will not agree to indemnify the selected firm in any Agreement resulting from this RFQ with respect to any matters.

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

Confidentiality

MKAA cannot agree to confidentiality provisions in any Agreement resulting from this RFQ due to open records laws.

Federal Aviation Administration Provisions

The selected firm must agree to comply with Civil Rights provisions and any other applicable Federal Aviation Administration requirements in any Agreement resulting from this RFQ.

Affirmative Action

To the extent the Selected Company engages in construction work as defined by 41 C.F.R. § 60-1.3, the following notice shall apply and the term "Contractor" shall mean the Selected Firm:

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade: 6.6%

Goals for female participation in each trade: 6.9%

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

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is Tennessee, Blount, Alcoa.

Applicable Federal Provisions:

Any agreement will require compliance with the following stated orders and regulations.

TITLE 49 United States Code, CHAPTER 501 – Buy American Preferences

DOL Regulation 29 CFR Part 5 – Davis Bacon Act

DOT Regulation 49 CFR PART 29 – Government wide Debarment and Suspension and Government wide Requirements for Drug-free Workplace

DOT Regulation 49 CFR Part 26 Disadvantaged Business Enterprise Participation

DOT Regulation 49 CFR PART 30 - Denial of Public Works Contracts to Suppliers of Goods and Services of Countries that Deny Contracts to Suppliers of Goods and Services of Countries that Deny

Procurement Market Access to U.S. Contractors (Foreign Trade Restriction).

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY

ARCHITECTURAL PROFESSIONAL SERVICES

REQUEST FOR QUALIFICATIONS

Lobbying and Influencing Federal Employees - 31 USC § 1352 – Byrd Anti-Lobbying Amendment, 2 CFR part 200, Appendix II(J), 49 CFR part 20, Appendix A

Procurement of Recovered Materials – 2 CFR § 200.322, 40 CFR part 247, Solid Waste Disposal Act

Drug-Free Workplace Act of 1988 – 41 U.S.C. 702 through 706

DBE Program

Firms shall comply with the MKAA approved DBE Program (available at <https://flyknoxville.com/business-at-tys/#dbe>) to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts and shall not be discriminated against on the basis of race, color, national origin, disability, or sex in the award and performance of DOT assisted contracts or other contracts defined by the MKAA.

List of Exhibits and Drawings

- Exhibit A – Professional Services Agreement
- Exhibit B – Civil Rights Provisions

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY
ARCHITECTURAL PROFESSIONAL SERVICES
REQUEST FOR QUALIFICATIONS

EXHIBIT A

AGREEMENT FOR PROFESSIONAL SERVICES

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, is made and entered into as of the _____ day of _____, 20__ by and between the METROPOLITAN KNOXVILLE AIRPORT AUTHORITY, a public corporation organized and existing under the laws of the State of Tennessee (the "Authority"), and _____, a _____, having offices at _____, _____, _____ (the "Consultant").

WITNESSETH:

WHEREAS, the Authority desires to obtain professional services for Airport development projects at the McGhee Tyson Airport and Knoxville Downtown Island Airport (the "Airport"); and

WHEREAS, as a result of a request for qualifications published by the Authority and a selection process, the Consultant has been selected and the Authority desires to employ the Consultant to furnish certain professional services for various projects to be determined in the future; and

WHEREAS, the parties desire to set forth the terms under which the Consultant shall provide such services.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the Authority and the Consultant agree as follows:

1. Scope of Engagement.

(a) The work contemplated by this Agreement is expected to consist of individual projects within the scope of the Consultant's area of expertise, and the Authority will identify each such specific project to the Consultant as needed. Upon identifying such a project, the parties will use their best efforts to develop jointly and agree upon a "Scope of Work" consisting of a description of the scope of basic services and any special services required for the specific project.

(b) Each such Scope of Work shall become a part of a work authorization based upon the form of Exhibit H hereto (each a "Work Authorization"), and each Work Authorization shall be attached hereto and incorporated herein by reference. The undertaking of a Scope of Work may be authorized in multiple Work Authorizations, covering different phases of such Scope of Work, such as programming phase, design and bidding phase, construction administration phase, post-construction support phase, and warranty phase. The issuance by the Authority of a Work Authorization for a phase of Scope of Work shall not require the Authority to issue Work Authorizations for subsequent phases.

(c) Upon the Authority's issuance of a written notice to proceed with a project pursuant to a Work Authorization, the Consultant will proceed to provide the services described in such Work Authorization.

(d) It is not the intent of the parties that this Agreement apply to all projects which may be initiated by the Authority, and the Authority expressly reserves the right to use a separate selection process to provide professional services for projects as it deems appropriate.

(e) The standard of care for all professional services performed by the Consultant and its subcontractors and subconsultants pursuant to this Agreement shall be the care and skill ordinarily used by members of such profession practicing under similar conditions at the same time for similar projects.

2. Responsibility of the Authority.

(a) The Authority shall designate a representative authorized to act on its behalf to identify individual projects and to negotiate the Scope of Work for each project. The Consultant acknowledges that such representative shall not have the authority to legally obligate the Authority except to the extent authorized by the Authority's bylaws and policies.

(b) The Authority shall make available for the Consultant's use all record drawings, maps and information as to unusual conditions affecting the Consultant's services that are related to the individual project and readily available to the Authority. Unless the Consultant is aware of the inaccuracy of any information contained therein, the Consultant shall be entitled to use and rely upon the accuracy, reliability and completeness of any such documents and information provided by the Authority or its employees, agents, officers, or consultants in conjunction with the Consultant's performance of services pursuant to this Agreement.

3. Payments to the Consultant.

(a) The Authority agrees to pay the Consultant as compensation for its services performed under this Agreement, and pursuant to an executed Work Authorization, the consideration set forth in such Work Authorization.

(b) Compensation for Services.

(i) Basic Services. Compensation for basic services under a Work Authorization may be paid based upon any of the following methods: (i) an hourly basis utilizing the hourly rates, (ii) a lump sum amount (when the Authority and the Consultant *can* fully define the scope, complexity, character and duration of effort at the time negotiations take place), (iii) a cost plus fixed fee basis (when the Authority and Consultant *cannot* fully define the scope, complexity, character or duration of effort at the time negotiations take place), or (iv) a combination of any of the above methods. The payment method shall be agreed upon by the parties and set forth in the applicable Work Authorization. The Consultant's current standard hourly billing rates are reflected in Exhibit B attached hereto and will be in effect through December 31 of each calendar year with no changes to rates. The Consultant may request an increase in its standard hourly billing rates by submitting an updated Exhibit B by December 1 in any year for consideration of and, if approved, written approval by the Authority, which increased rates would go into effect as of January 1 of the following calendar year, and if the Authority does not approve any such increase, the Consultant shall not be required to thereafter enter into any Work Authorization based upon the standard hourly rates. For project to be undertaken based upon a cost plus fixed fee basis, the Consultant will provide the Authority with a fixed fee worksheet for review and approval before executing a Work Authorization for such project.

(ii) General Services. The Authority may also request that the Consultant provide general consultant services not related to a specific project, and in such event, the parties shall negotiate the terms of a Work Authorization relating to such general services prior to the Consultant's commencement of said services, including which payment method in Section 3(b)(i) above is to be applied.

(iii) Maximum Fee. Each Work Authorization shall include a stated maximum amount payable by the Authority thereunder.

(c) Compensation for Special Services. The Authority will pay the Consultant for special services performed by subcontractors or subconsultants under approved subcontracts which may be included in a lump sum amount or at the actual invoice amount plus a percentage (not to exceed 15%) administrative charge as is negotiated in the applicable Work Authorization. The scope and cost of such subcontract work must be approved in advance by the Authority. For special services performed by employees of the Consultant, compensation shall be based on the applicable Work Authorization.

(d) Reimbursable Expenses: Reimbursable expenses are defined and shall be paid as follows:

(i) Travel expenses, including meals and incidental expenses, incurred by the Consultant's personnel engaged in work required by any Work Authorization when traveling in connection with the project outside the Knoxville area when authorized by the Authority will be considered a reimbursable expense. Travel expenses, including meals and incidental expenses, shall be reimbursed in accordance with the current United States General Service Administration (the "GSA") per diem rates as published by the GSA from time to time.

(ii) Reproduction expenses for drawings and design documents and overnight delivery expenses applicable to the project will be considered reimbursable expenses and shall be paid at actual cost without added mark-up or overhead.

(e) Terms and Conditions. The compensation described above is based upon the following conditions:

(i) Time charged to the project by the Consultant's personnel will include only the time that the applicable employees are engaged in actual work on the project at the Consultant's office and at the site of the project.

(ii) Only the personnel needed and required to accomplish the services in keeping with the prescribed schedule shall be assigned to the project.

(iii) Charges will not be made to the project during periods of sickness, vacation or at any other times when personnel are not gainfully employed on the project.

(f) Invoices shall be submitted at monthly intervals to the Authority along with any required backup documentation per the compensation method provided in the applicable Work Authorization. Payment shall be due and payable within thirty (30) days after approval by the Authority. In the event the Authority has an objection to all or a portion of an invoice, it will convey the objection to

the Consultant promptly, and will proceed to pay the portion of the invoice to which it has no objection pending resolution of its objection.

4. Term and Termination.

(a) The term of this Agreement shall commence on the date hereof and expire at the end of thirty-six (36) months thereafter. The term hereof shall be automatically extended for two additional periods of one (1) year each (each an "Extended Term"), unless by written notice delivered thirty (30) days prior to the commencement of the first Extended Term, or, if applicable, the second Extended Term, either party shall notify the other of the intention not to renew.

(b) For any Work Authorization that is authorized and executed prior to the expiration of the original term, or Extended Term(s) of this Agreement, the Consultant shall provide services through completion as described in the Scope of Work with all terms of this Agreement in effect until the completion of such Work Authorization.

(c) This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to substantially perform in accordance with the terms hereof through no fault of the party initiating the termination. In the event of termination for such default, the Consultant shall cease work under this Agreement as of the date of the notice of termination and shall be paid for services rendered to the time of termination, adjusted by the extent of additional costs, if any, incurred by the Authority as a result of the Consultant's default.

(d) A Work Authorization may be terminated or suspended by the Authority in the event it chooses to abandon or indefinitely postpone the project that is the subject of the Work Authorization prior to the completion of the work related to that project. In the event of such a termination, the Authority shall give seven (7) days written notice to the Consultant of its decision to abandon or postpone the individual project and the Consultant shall stop all work on the project as of the date of the notice. The Authority shall pay the Consultant for services rendered to the time of abandonment, suspension or indefinite postponement, but no amount shall be allowed for anticipated profit on unperformed services. If the Consultant is undertaking a Work Authorization based upon a fixed fee, the payment shall be based upon the Authority's determination as to the percentage of the Work Authorization performed.

(e) This Agreement may also be terminated entirely by the Authority, for its convenience, upon sixty (60) days' prior written notice to the Consultant, which shall discontinue all work under this Agreement upon receipt of such notice. The Authority shall pay the Consultant for services rendered to the date of termination as well as its reasonable costs of terminating its work under the Agreement, but no amount shall be allowed for anticipated profit on unperformed services. If the Consultant is undertaking a Work Authorization based upon a fixed fee, the payment shall be based upon the Authority's determination as to the percentage of the Work Authorization performed.

(f) The Consultant shall deliver to the Authority any and all work product produced by it prior to any termination as above recited.

5. Ownership of Documents.

(a) All work product prepared by the Consultant pursuant to this Agreement, including but not limited to data, reports, drawings, specifications, estimates, designs, calculations, tracings, maps, studies, photographs, models, summaries and recommendations, shall become and be the property of the Authority and not of the Consultant and shall be delivered to the Authority upon its request, or in all events upon the cessation of this Agreement, whether by expiration, termination or otherwise. The Consultant may retain copies, including reproducible copies, of such work product as part of its record of professional activity.

(b) All documents, including drawings and specifications prepared by the Consultant pursuant to this Agreement, are intended for use only with respect to the project for which such documents are prepared and are not intended or represented to be suitable for reuse by the Authority for any other project. Any reuse without written verification by the Consultant will be at the Authority's sole risk and without liability or legal exposure to the Consultant. Any such verification or adaptation will entitle the Consultant to further compensation at rates to be agreed upon by the Authority and the Consultant. Notwithstanding these provisions, the Authority shall be provided data and drawings as addressed in the Airport Design Guidelines adopted by the Authority.

(c) All rights to inventions and materials generated under this Agreement may be subject to rules or regulations to the extent applicable, issued by the Federal Aviation Administration (the "FAA"), the Tennessee Department of Transportation Aeronautics Division (the "TDOTAD") and the Authority, and to the extent applicable, such rules or regulations shall take precedence over the terms of this Agreement.

6. Assignment. The Consultant acknowledges that its services are unique and personal and its rights under this Agreement may not be assigned or its duties or obligation delegated without the express written consent of the Authority. Any contract by the Consultant with a subcontractor or subconsultant approved in a Work Authorization shall be deemed a permitted delegation under this Agreement, but the Consultant shall remain primarily responsible for performance of any such subcontractor or subconsultant.

7. Covenant Against Contingent Fees. The Consultant warrants that it has neither employed nor retained any person or company other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement, and that it has not paid nor agreed to pay any company or person other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

8. Additional Services. No services shall be provided by the Consultant under this Agreement unless such services are provided under a duly executed Work Authorization by both parties. It is mutually understood and agreed that the Authority, subject to the limitations of Section 3(b) hereof, will compensate the Consultant for services resulting from significant changes in general scope of the Work Authorization project or its design, including but not necessarily limited to, changes in size, complexity, project schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract

documents and for preparation of documents for separate bids, when such revisions are due to causes beyond the Consultant's control and when requested or authorized by the Authority. Compensation for such additional work when authorized by the Authority shall be reflected in a new Work Authorization.

9. Jurisdiction and Venue. This Agreement has been executed by, delivered to and accepted by the Authority in the State of Tennessee, and the provisions hereof shall be governed by the laws of Tennessee, and any disputes arising out of or related to this Agreement shall be resolved in accordance with said laws. The parties agree that any action or legal proceeding arising out of or related to this Agreement shall be brought in the state courts of Knox County, Tennessee, or in the federal court in the district where the Airport is located, and the parties hereby consent to and waive any objection to jurisdiction or venue in said courts.

10. Non-Binding Mediation. The Authority and the Consultant agree to engage in nonbinding mediation in an effort to resolve any disputes that arise hereunder. Engaging in mediation shall not be a condition precedent to either party's right to institute legal action on its claims. The parties may engage in nonbinding mediation either before or after litigation is commenced, provided, however, that in no event shall the request for mediation be made after the claim or dispute would be barred by the applicable statute of limitations.

11. Notices. Notices to the parties under this Agreement shall be sufficient if delivered by overnight delivery by a nationally recognized courier or sent by registered mail, postage prepaid, addressed to:

Metropolitan Knoxville Airport Authority
Attn: Vice President of Engineering and Planning
McGhee Tyson Airport
2055 Alcoa Highway
Alcoa, Tennessee 37701

or to such other address or person as the Authority may from time to time designate in writing. All notices and payments required to be given or made by the Authority to the Consultant pursuant to this Agreement shall be given or made at the following address:

or at such other address as the Consultant may from time to time designate in writing.

12. Headings. The headings of the several sections of this Agreement are inserted as a matter of convenience and for reference, and they in no way define, limit or describe the scope or intent of any

provision hereof., nor shall they be construed to affect in any manner the terms and provisions hereof or the interpretation or construction of such terms and provisions.

13. Indemnification.

(a) The Consultant agrees to indemnify and hold harmless the Authority and its commissioners, officers and employees from and against claims, actions or demands by a third party for damages, injuries and losses to persons and property, including but not limited to death of any person and loss of the use of any property to the extent caused by any negligent activity, error or omission of the Consultant or any agent, employee, licensee, subcontractor or subconsultant of the Consultant. Further, the Consultant agrees to indemnify and hold harmless the Authority and its commissioners, officers and employees from and against loss, liability and damages to the extent losses and damages are caused by the negligence of Consultant in performance of the Consultant's services related to the terms, conditions or other provisions of this Agreement.

(b) The Consultant agrees to indemnify and hold harmless the Authority and its commissioners, officers and employees, except in the case of the Authority's negligence or intentional misconduct, from and against claims, actions or demands for compensation allowed against it or them under any worker's compensation law arising out of injuries sustained or claimed to have been sustained by any employee of the Consultant to the extent such claim, action or demand is covered by worker's compensation insurance required hereby or would be covered if the Consultant fails to maintain such worker's compensation insurance required hereby.

(c) The Consultant's obligations to indemnify and hold harmless the Authority, its commissioners, officers and employees, as set forth herein, shall include reimbursement of reasonable attorney's fees, defense costs and investigation expenses incurred by the Authority, but only to the extent losses and damages are caused by the negligent acts, errors or omissions of the Consultant.

(d) The Consultant shall give the Authority prompt and timely notice of any claims made or suits initiated which in any way directly or indirectly, contingently or otherwise, affect or might affect the Authority, and each party shall have the right to compromise and defend the same to the extent of its own interest.

(e) In addition to the foregoing, if the alleged damage, injury or loss is of a nature that, if proven, would be covered by the commercial general liability insurance or would be covered if the Consultant fails to maintain such commercial general liability insurance required hereby, as opposed to professional liability insurance, then the Consultant's indemnification obligation under this Section 14 also includes an obligation to defend the Authority against claims, actions and demands arising in connection with the alleged damage, injury or loss.

14. Insurance. The Consultant shall secure and maintain in force or cause to be secured and maintained in force during the life of this Agreement the following policies of insurance:

(a) Commercial general liability insurance to protect the Consultant in performing the work covered by this Agreement from claims for injury to persons, including wrongful death, and for

damage to property which may arise from activities undertaken under this Agreement, whether such activities be by the Consultant or by any employee, subconsultant, subcontractor or agent of the Consultant, or by anyone directly or indirectly employed by either the Consultant or any subcontractor, subconsultant or agent. Such policy shall afford coverage for contractual liability on a broad form basis or contractual liability specifically covering this Agreement between the Consultant and the Authority and shall name as additional insureds the Authority, its commissioners, officers and employees, all with the right of notice in the policy. Such policy shall provide coverage in an amount not less than One Million Dollars (\$1,000,000.00) for injury to persons and damage to property, shall cover owned and non-owned automobiles, and shall provide automobile liability insurance coverage of not less than One Million Dollars (\$1,000,000.00) for injury to persons and damage to property.

(b) The Consultant shall provide evidence of professional liability insurance with limits of not less than One Million Dollars (\$1,000,000.00).

(c) The Consultant shall carry worker's compensation insurance as required by the law of the State of Tennessee.

(d) The Consultant shall require its subcontractors and subconsultants to comply with the same insurance requirements required of the Consultant by the Authority unless waived in writing by the Authority.

(e) The Consultant shall provide certificates of insurance evidencing the Consultant's compliance with the requirements of this section, including certificates of insurance evidencing a renewal of such policies of insurance as expire during the term hereof. To the extent legally available, these certificates shall contain a provision that coverages afforded under the policies will not be reduced, cancelled or allowed to expire until at least thirty (30) days' prior written notice has been given to the Authority. Certificates evidencing coverage under blanket coverage maintained by the Consultant will be acceptable to the Authority, provided that such certificates are expressly endorsed to include coverage as required by the terms hereof and to include coverage of the Authority, its commissioners, officers and employees, and provided further that the insuring entity is satisfactory to the Authority. Such certificates shall contain and provide such additional information and provisions as may be requested by the Authority from time to time. The Authority in its discretion may modify or waive any of the foregoing insurance requirements.

(f) The insurance limits and types of coverage set forth in this Section 14 are minimum requirements, and the Authority, in its sole discretion, may increase or modify such limits and coverage based on the scope of a particular Work Authorization, provided that the Consultant shall not be required to execute such a Work Authorization if it is not able to comply with such additional insurance requirements.

15. Incorporation of Regulations. The Consultant agrees to incorporate into and make a part of this Agreement by reference or, at the option of the Authority by setting forth at length, any and all statutes, rules and regulations, the incorporation of which may be required by the FAA, TDOTDA or other

governmental agency, or the incorporation of which may be a prerequisite to or condition of the Authority's receiving any federal or state grant or loan or other governmental assistance in connection with the Airport.

16. General Civil Rights Provision. The Consultant shall agree 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 is in addition to the legal obligations of the Consultant under Title VI of the Civil Rights Act of 1964.

The Consultant, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination acts and authorities, as they may be amended from time to time and to the extent to they apply to the services to be provided by the Consultant to the Authority:

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (prohibiting discrimination on the basis of race, color, national origin);
- 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;
- the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 (prohibiting unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. (prohibiting discrimination on the basis of disability), and 49 CFR part 27;
- the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq. (prohibiting discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, 49 USC § 47123, (prohibiting discrimination based on race, creed, color, national origin, or sex);
- the Civil Rights Restoration Act of 1987, Pub.L 100-209, (broadening 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, subrecipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12189, as implemented by 49 CFR parts 37 and 38 (prohibiting discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities);
- 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;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 70 Fed. Reg. at 74087 – 74100 (defining national origin discrimination to include discrimination because of limited English proficiency); and
- Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (prohibiting discrimination because of sex in education programs or activities).

17. Title VI Clauses for Compliance with Nondiscrimination Requirements. During the performance of this Agreement, the Consultant agrees as follows:

(a) Compliance with Regulations: The Consultant will comply with the "Title VI List of Pertinent Nondiscrimination Acts and Authorities," identified by the federal government, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

(b) Nondiscrimination: The Consultant, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors or subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the above referenced Title VI List of 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.

(c) Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor, subconsultant or supplier will be notified by the Consultant of the Consultant's obligations under this Agreement and the Title VI List of Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

(d) Information and Reports: The Consultant will provide all information and reports required by the Title VI List of Nondiscrimination Acts and Authorities, 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 Authority or the FAA to be pertinent to ascertain compliance with such Title VI List of Nondiscrimination Acts and Authorities and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the non-discrimination provisions of this Agreement, the Authority will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

(i) Withholding payments to the Consultant under this Agreement until the Consultant complies; and/or

(ii) Cancelling, terminating, or suspending this Agreement, in whole or in part.

(f) **Incorporation of Provisions:** The Consultant will include the provisions of clauses (a) through (e) above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Title VI list of Nondiscrimination Acts and Authorities and directives issued pursuant thereto. The Consultant will take action with respect to any subcontract or procurement as the Authority or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subcontractor, subconsultant or supplier because of such direction, the Consultant may request the Authority to enter into any litigation to protect the interests of the sponsor. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

18. **Disadvantaged Business Enterprise.** It is the policy of the Authority that Disadvantaged Business Enterprises (the "DBEs") will have an equal opportunity to participate in the performance of contracts issued by the Authority. Work authorizations issued under this agreement are not required to comply with the Authority DBE program if no federal funds are to be utilized to pay compensation under this Agreement, but program participation in accordance with the Authority's small business program, including DBE programs, is highly encouraged. Each Work Authorization will include a stated percentage of anticipated DBE participation and an associated DBE reporting form that must be submitted with each invoice.

19. **No Personal Liability.** No elected official, commissioner, officer, agent or employee of the Authority shall be charged personally or held individually contractually liable by or to the Consultant under any term or provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

20. **Debarment and Suspension.** The Consultant certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subconsultants, subcontractors and their respective principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

(b) have not within a three (3) year period preceding this Agreement been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

(d) have not within a three (3) year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

The Consultant shall provide immediate written notice to TDOTDA if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals or its subconsultants or subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of clauses (a) through (d) above.

21. Licensure. The Consultant certifies that it is licensed pursuant to all applicable federal, state, and local laws, ordinances, rules and regulation to perform the services to be provided hereunder. Upon the request of the Authority, the Consultant shall provide proof of such licenses.

22. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, et seq., addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Agreement. The Consultant certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

The Consultant shall be responsible for requiring that the foregoing certifications, warranties and assurances are contained in each subcontract entered into by Consultant to perform under this Agreement.

23. Concerns of the State. The Consultant warrants that no part of the compensation provided for herein shall be paid directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation or gifts in exchange for services as officer, agent, employee, subcontractor or subconsultant to the Consultant in connection with any work contemplated or performed relative to this project. The Consultant further warrants that it is not presently, nor will it be at any time related to this project be debarred or otherwise prohibited from doing business with the State of Tennessee.

24. Responsibilities of the Consultant.

(a) The Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports and other services furnished by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its designs, drawings, specifications, reports, cost estimates and other services.

(b) Approval by the Authority, the FAA or TDOTDA of drawings, designs, specifications, reports, cost estimates and incidental engineering work or materials furnished hereunder shall not in any way relieve the Consultant of its responsibility for the technical adequacy of its work.

(c) The Consultant shall be and remain liable in accordance with applicable law for all damages to the Authority caused by the Consultant's negligent performance of any of the services furnished under this Agreement, except to the extent provided in Section 2(b).

(d) The Consultant shall not be responsible for any time delays in the project caused by the loss or destruction of any portion of the project including, but not limited to, fire, theft, smoke, storm, vandalism, sudden or accidental damage from irregularities in electrical current, or any circumstances beyond the Consultant's control.

(e) The Consultant's work product shall comply with the Authority's published Design Guidelines and Supplemental Guidelines for McGhee Tyson Airport and Knoxville Downtown Island Airport.

(f) Any violation or breach of the terms of this Agreement on the part of the Consultant or its subcontractors or subconsultants may result in suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties of this Agreement. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

(g) An organizational chart showing the primary employees to provide services under this Agreement is attached hereto as Exhibit A and shall be updated from time to time with the consent of the Authority.

25. Relation to Construction Work. The Consultant shall not be responsible for the actual construction of any project undertaken pursuant to plans or drawings prepared by the Consultant to a Work Authorization, and the Consultant shall not be responsible for the acts or omissions of any construction contractor for any safety precautions, programs or enforcement undertaken by such contractor or for the construction means, methods, techniques, sequences and procedures employed by the Consultant, provided, however, this Section shall not be construed to remove or reduce the standard of care of Consultant in performing any construction administration work or similar oversight work pursuant to a Work Authorization.

26. Exhibits Incorporated. All exhibits to this Agreement are incorporated herein by reference. Exhibits are as follows:

Exhibit A - Agreement Organizational Chart

Exhibit B - Consultant Hourly Rate Schedule

Exhibit C - General Provisions for Program Management, Planning and General Consulting Services

Exhibit D - General Provisions for Environmental Services

Exhibit E - General Provisions for Engineering Services

Exhibit F - General Provisions for Architectural Design Services

Exhibit G - Duties, Responsibilities, and Limitations of Authority of Resident Project

Representative

Exhibit H - Work Authorization Form

Exhibit I - Airport Design Guidelines

Exhibit J - Airport Supplemental Design Guidelines

Exhibit K - On-Site Charrettes for Planning, Programming and Schematic Design Phases

Exhibit L - Mandatory Federal Aviation Administration Provisions

Exhibit M – Mandatory Tennessee Department of Transportation – Aeronautics Division

Provisions

27. Entire Contract. The foregoing, together with the Work Authorizations issued hereunder, constitutes the entire Agreement between the parties, and no amendment thereto shall be effective unless made in writing and signed by both parties.

28. Mandatory Federal Aviation Administration Provisions. Work Authorizations issued under this Agreement may be funded in part by a grant from FAA, which requires as a condition of the award of the grant that certain provisions be included in the Agreement. With respect to any Work Authorization so funded, the Consultant, for itself, its assignees, and successors in interest, agrees to comply with the applicable subset of the contract provisions required by FAA, set forth in Exhibit L attached hereto. The applicable subset of the contract provisions will be indicated in each individual Work Authorization. The Consultant shall also be responsible for requiring that such requirements are contained in each subcontract under such Work Authorization.

29. Mandatory Tennessee Department of Transportation – Aeronautics Division Provisions. Work Authorizations issued under this Agreement may be funded in part by a grant from TDOTDA, which requires as a condition of the award of the grant that certain provisions be included in the Agreement. With respect to any Work Authorization so funded, the Consultant, for itself, its assignees, and successors in interest, agrees to comply with the contract provisions required by TDOTDA, set forth in Exhibit M attached hereto. The Consultant shall also be responsible for requiring that such requirements are contained in each subcontract under such Work Authorization.

30. Interpretation of Agreement. In interpreting this Agreement, the parties agree that the FAA's Advisory Circular 150/5100-14E, as amended or updated from time to time, shall be used to interpret terms used in this Agreement that are not otherwise defined, including, but not limited to, the scope of basic and special services, regardless of whether funds provided by the FAA will be used by the Authority to pay for any services provided by the Consultant pursuant to this Agreement.

[signature page to follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or principals on the day and year first above written.

ATTEST:

METROPOLITAN KNOXVILLE
AIRPORT AUTHORITY:

By: _____

Its: _____

APPROVED AS TO FORM
AND LEGALITY:

Legal Counsel

By: _____

Its: _____

29487888.6

METROPOLITAN KNOXVILLE AIRPORT AUTHORITY
ARCHITECTURAL PROFESSIONAL SERVICES
REQUEST FOR QUALIFICATIONS

EXHIBIT B

CIVIL RIGHTS PROVISIONS

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

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

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

1. GENERAL CIVIL RIGHTS PROVISIONS

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

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

2. TITLE VI COMPLIANCE WITH NON-DISCRIMINATION REQUIREMENTS

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

1) COMPLIANCE WITH REGULATIONS

The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2) NON-DISCRIMINATION

The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3) SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT

In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4) INFORMATION AND REPORTS

The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books,

records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5) **SANCTIONS FOR NONCOMPLIANCE**

In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- 1) Withholding payments to the Contractor under the Contract until the Contractor complies; and/or
- 2) Cancelling, terminating, or suspending a Contract, in whole or in part.

6) **INCORPORATION OF PROVISIONS**

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

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

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

- 1) Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 2) 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- 3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- 4) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- 5) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- 6) Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- 7) The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the

Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- 8) Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- 9) The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- 10) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- 11) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- 12) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).