



AIRPORT

DATE: January 7, 2020
FROM: Gregory B. Haug, Airport Director
ITEM: Agenda Item for January 14, 2020

REQUEST

Consider the approval of a contract with Volaire Aviation Consulting for air service development services.

BACKGROUND INFORMATION

Bismarck Airport has had an ongoing Air Service Development program to improve airline service to our city for a number of years. Integral to that program is our air service development and marketing consultant firm, Volaire Aviation. Michael Mooney, a managing partner of Volaire Aviation, is Bismarck Airport's lead consultant.

Relationships with air service consultants take a while to develop. There needs to be time for the airport and consultant to develop a strategic vision for air service to/from the community. It is equally important that the consultant understands the community and how shifts in air service will affect it. Volaire Aviation and Mr. Mooney have provided these services to Bismarck for three years and have an excellent understanding of the nuances of our market. Mr. Mooney is a former V.P. of Planning, Pricing and Revenue Management for a major airline and has 35 years of airline and air service development experience in the industry. Mr. Mooney is well respected by airline route planners and has very good contacts within the airline/aviation community.

The current contract with Volaire Aviation expired on December 31, 2019. Airport staff negotiated an updated contract with Volaire Aviation to provide air service development consulting and marketing assistance. The contract period is January 1, 2020 through December 31, 2022, with an option for two one year renewals upon mutual consent of both parties.

The proposed contract includes base items needed to assist airport staff with managing and advancing air service in our market. The base items include updates to the airport's air service strategic plan, data reports, airport marketing assistance, community visits, airline headquarters

meetings, and conference meetings where the airport can meet directly with airline route planners to discuss route performance and/or future opportunities. In addition to the base items, the contract outlines optional items that may be selected by airport staff throughout the year.

The contract has a monthly fee of \$4,500, which has remained the same from the last contract. This fee covers all base items and the selection of optional items. Airport staff feels the fee is reasonable and that it is important to maintain the relationship it has developed with Mr. Mooney and other members of Volaire Aviation over past years. Airport staff is recommending the commission approve this contract with Volaire Aviation.

The fee for this contract is included in the airport's approved spending plan.

RECOMMENDED CITY COMMISSION ACTION

1. Approve the contract between the City of Bismarck and Volaire Aviation Consulting for air service development services.

STAFF CONTACT INFORMATION

Greg Haug, Airport Director, 701-355-1808, [għaug@bismarcknd.gov](mailto:ghaug@bismarcknd.gov)

Enclosures:

1. Proposed contract between the City of Bismarck and Volaire Aviation Consulting

CONSULTING SERVICES AGREEMENT

This Consultancy Agreement (the “Agreement”) is made and entered into by and between Volaire Aviation, Inc. (the “Consultant”) and the Bismarck Airport (the “Airport” or BIS) (hereinafter referred to individually as a “Party” and collectively as “the Parties”).

1. Engagement and Services

- (a) **Engagement.** The Airport hereby engages the Consultant to provide and perform the services set forth in this section of the agreement (the “Services”), and the Consultant hereby accepts the engagement.
- (b) **Term.** This agreement will begin January 1, 2020, and be in effect through December 31, 2022. Either party can terminate the contract on 60-day notice with or without cause. Upon mutual consent of both parties this contract may be extended for two additional one (1) year terms thru December 31, 2024.
- (c) **Scope of Work.** Consultant will complete the following projects in the timeframe noted;

Monthly retainer to include the following at an inclusive retainer rate of **\$4,500 or \$54,000 annually:**

| <u>Professional Service</u> | <u>Frequency</u> | <u>Value</u> |
|----------------------------------------------------------|----------------------------------|--------------------------------------------------|
| Airline Headquarters Meetings | Up to 2/year | \$9,000 for 1st, \$7,500 2nd |
| Conference Meetings (7 x year) | 3 conferences/year | \$4,500 for 1st per conf, \$2,500 others |
| Community Visit | 1 per year | \$3,500 per visit |
| Air Service Plan Update (inc. ASD+Marketing Strategy) | Every Year | \$2,000 |
| Airport Marketing Assistance | Ad hoc up to 8 hrs/month inc. | \$160/hour, max 96 hrs/year max \$15,360/year |
| Quarterly Air Service Data Report | Per quarter | \$800/quarter, \$3,200 per year |

One or a combination of items from the below list per contract year up to up to **\$15,000**

| | |
|-------------------------------------------------------|----------|
| Economic Activity Analysis of new service option | \$ 7,500 |
| Air Service Development Video | \$15,000 |
| Webbased Travel Cost Calculator | \$ 3,000 |
| SCASD Grant application | \$12,000 |
| Pricing Scan (ten city pair comparison, two airports) | \$ 3,000 |
| Catchment Leakage Analysis | \$12,000 |
| Subsequenct Airline HQ Meeting | \$ 7,500 |
| Demographic Profile of Catchment Area Report | \$ 5,000 |
| Additional Community Visit | \$ 3,500 |

2. Consultancy Fees and Expenses

(a) Fee Schedule. Consultant will perform all of the scope of work items per calendar year plus one or a combination of the optional items per calendar year, as directed by the Airport. **Airport will pay the Consultant a monthly retainer fee of \$4,500 or \$54,000 annually.**

(b) Expenses. Consultant shall be entitled to reimbursement for expenses reasonably incurred in the performance of the Services, upon submission and approval of written statements in accordance with the then regular procedures of the Airport. Reasonable expenses include, but are not limited to, travel (airfare, hotel, rental car, and meals), printing of materials, and shipping of materials. Consultant will invoice all expenses at cost plus a 10% administrative fee.

(c) Payment. The Consultant shall submit to the Airport invoices detailing the Services performed, expenses, and the amount due. All such invoices shall be due and payable within thirty (30) calendar days after receipt thereof by the Airport.

(d) Air Service/Airport Marketing Assistance. Consultant may provide guidance, upon request, pertaining to the Airport's overall marketing program to include items such as media buys, review of press releases, social media monitoring, graphic design development, and involvement in stakeholder communication, at the rates defined herein. If Airport requires additional marketing assistance, in excess of the 8 hours/month included in the retainer, Airport can request additional hours at the reduced rate of \$110/hour.

a.) *Graphic/creative images purchased for the airport are subject to a 10% administrative fee.*

3. Non-Compete Consulting Agreement

Consultant agrees that for the duration of this contract not to provide air service consulting services at Dickinson, Jamestown, Williston or Minot, North Dakota.

4. Federal Provisions (Attachment B)

Federal law requires that certain agreement provisions must be incorporated into all airport agreements. These federally required agreement provisions are hereby incorporated herein and made a part of this agreement and the contractor agrees to the following:

- a. Civil Rights – General
- b. Civil Rights Title VI Assurances
 - i. Notice - Solicitation
 - ii. Clause - Contracts
 - iii. Clause – Transfer of U.S. Property
 - iv. Clause – Transfer of Real Property
 - v. Clause - Construct/Use/Access to Real Property
 - vi. List – Pertinent Authorities
- c. Federal Fair Labor Standards Act
- d. Occupational Safety and Health Act



5. Contact Information

For Bismarck Airport

Greg Haug
Airport Director
2200 Terminal Boulevard, Suite 225B
P.O. Box 991,
Bismarck, North Dakota 58502
ghaug@bismarcknd.gov

For Volaire Aviation Consulting

Michael Mooney
Managing Partner
8500 E. 116th Street,
Suite 728
Fishers, Indiana
michael.mooney@volaireaviation.com

IN WITNESS WHEREOF, the Parties have duly executed this Agreement by their authorized representatives as of the date first written above.

Signed for and on behalf of
Bismarck Airport

Signed for and on behalf of
Volaire Aviation, Inc.

By: Steven Bakken
Title: President, Board of City Commissioners

By: Michael Mooney
Title: Managing Partner

Scope of Work Detail and Description (Attachment A)

Airline Headquarters Meetings

Consultant will prepare all materials for airline headquarters meetings, including a specific business case for targeted service. Presentations will include specific demographic analysis of the airport catchment area, economic analysis of the market region, overview of current airline market conditions, and a specific business case and analysis of proposed new service or expanded service.

Consultant will attend all airline headquarters meetings with Airport and present the full business case for current, new, and expanded service.

Consultant will provide all requested follow-up information requested by the airline following the meeting.

Air service development conference meetings

Consultant will work with Airport to identify target airlines for meetings and to identify which conferences Airport should attend. Consultant will work with conference organizers to schedule meetings.

Consultant will prepare all materials for airline conference meetings, including a specific business case for targeted service. Presentations will include specific demographic analysis of the airport catchment area, economic analysis of the market region, overview of current airline market conditions, and a specific business case and analysis of proposed new service or expanded service.

Consultant will attend all airline conference meetings with Airport and present the full business case for current, new, and expanded service.

Consultant will provide all requested follow-up information requested by the airline following the meeting.

Community visits

Consultant will prepare state of the industry information, market detail, and other pertinent information for community meetings at Airport's request. This will include presentation of any pricing study information that may be relevant. Community visit can include presentation to both government bodies in public or executive session and or an open to the public community meeting or meetings.

Air Service Development and Marketing Strategy Plan

This Plan will outline historic and current air service patterns and domestic and international traffic and average fare data. The Plan will outline Bismarck market air service strengths and weaknesses and airline industry or other external factors which may affect local air service. The Plan will outline future air service goals and objectives and options for attaining those goals and objective. The Plan will review existing airport and community incentive programs and recommend options for improvement.



The Plan will summarize the existing air services at the Airport and outline potential improvements to existing service or new routes and carriers that can be targeted for recruitment.

Additionally, the plan will include recommendations of the airport's continued marketing and communications program and include a detailed overview of the program's air service marketing objectives, including an outline of tactics to achieve program goals. The plan will provide a roadmap for the airport to work from internally and with consultant assistance on air service related marketing efforts.

Air Service Development Plan Update

The Plan Update will update all data from the original Plan and identify changes in the environment that may suggest changes in the Plan.

Marketing Assistance

Provided as needed by an air service marketing professional familiar with the Bismarck market. Consultant may provide guidance, upon request, pertaining to the Airport's overall marketing program to include items such as media buys, review of press releases, social media monitoring, graphic design development, and involvement in stakeholder communication, at the rates defined herein.

Quarterly Air Service Data Report

Consultant will provide the Airport with a quarterly report defining the existing and projected near future services of each incumbent carrier. The report will also provide a summary of the most recent DOT traffic and fare and operational reports for each carrier and route at the Airport.

Optional Services Scope of Work Detail and Description

Economic Activity Analysis of Potential New Air Service

The consultant will perform an analysis of the economic changes that would reasonably occur given new air service option. Analysis would be performed using the IMPLAN Economic Impact software and would project for the Airport the positive economic changes that would occur from a given new air service.

Air Service Video

The consultant would provide a photo journalist who specializes in air service market video development. The photo journalist would come to Bismarck and develop a short video that would outline the strengths of the community and region. The video would be used in conjunction with recruiting of new air service and new air carriers.

Web-based Travel Cost Calculator

The consultant will develop and install on the Airport's website a travel related cost calculator option. This option would allow website users to input a travel scenario in which air service from another airport can be compared to using service from Bismarck, to the same destination in the same time frame. The tool would show the true cost of driving to another airport vs. using Bismarck.

Small Community Air Service Development Grant (SCASD)

The consultant would develop for the Airport a SCASD grant application. The consultant would aid the Airport in defining what air service goals the Grant application would have and how much local matching funds would be needed. The consultant would aid the Airport in filing the Grant application and with any follow through needed to gain DOT grant award.

Pricing Scan

Consultant would perform a review of BIS market pricing and, if needed, contact any incumbent carrier where a Scan may reveal pricing strategies that are non-competitive and damaging to the Airport's traffic capture and generation.

Catchment Leakage Analysis (CLA)

Consultant would perform an analysis of Bismarck region catchment area air travel volume, destination, airport of use, airline of use and average fare paid. The report would capture GDS and DOT data for the catchment area. The catchment area for research and data harvest would be defined by the Airport.

Demographic Profile of Catchment Area Report

Consultant will perform an analysis of the Bismarck region catchment area demographics. This will include Department of Labor and US Census data on population age, income, race, gender and education. This can be correlated with the Catchment Leakage Analysis. Data would be broken down by county or zip code.

Attachment B
Civil Rights Provisions

1. Airport and Airway Improvement Act of 1982, Section 520 - General Civil Rights Provisions

The contractor agrees that it will 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the 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.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.

In these cases the provision obligates the party or any transferee for the longer of the following periods:

- A. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - B. The period during which the airport sponsor or any transferee retains ownership or possession of the property.
2. Civil Rights Act of 1964, Title VI – Contractor Contractual Requirements

A. Title VI Solicitation Notice

(Source: Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

B. Title VI Solicitation Notice:

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

3. Title VI Clauses for Compliance with Nondiscrimination Requirements

(Source: Appendix A of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

Compliance with Nondiscrimination 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:

- A. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- B. 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 Acts and the Regulations, 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 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 Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- D. 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 Acts, Regulations, 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.
- E. 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.

F. 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.

4. Title VI List of Pertinent Nondiscrimination Authorities

(Source: Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration)

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:

- 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);
- 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), (prohibits 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.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- 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);
- 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);

- 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;

- 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);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures 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, 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);
- 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.).

5. **Clauses for Deeds Transferring United States Property**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the (*Title of Recipient*) will accept title to the lands and maintain the project constructed thereon in accordance with the Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. Part 200), the regulations for the administration of the University Transportation Centers Program, and the policies and procedures prescribed by the Office of the Secretary of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim, and convey unto the

(*Title of Recipient*) all the right, title and interest of the U.S. Department of Transportation in and to said lands.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (*Title of Recipient*) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real

property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (*Title of Recipient*), its successors and assigns.

The (*Title of Recipient*), in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the (*Title of Recipient*) will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].

6. Clauses For Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the (*Title of Recipient*) pursuant to the provisions for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program.

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for

another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (*Title of Recipient*) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (*Title of Recipient*) will have the right to enter or re-enter the lands and

facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (*Title of Recipient*) and its assigns.

7. Clauses for Construction/Use, Access to Real Property Acquired Under the Activity, Facility or Program

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (Title of Recipient) pursuant to the provisions for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above of the above Non-discrimination covenants, (*Title of Recipient*) will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.

- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, (*Title of Recipient*) will there upon revert to and vest in and become the absolute property of (*Title of Recipient*) and its assigns.

Federal Fair Labor Standards Act (Federal Minimum Wage)

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

| Federal Agency with Enforcement Responsibilities | Requirement |
|---------------------------------------------------------|-----------------------------------------------|
| U.S. Department of Labor – Wage and Hour Division | Federal Fair Labor Standards Act (29 USC 201) |

Occupational Safety and Health Act of 1970

All contracts and subcontracts that result from this solicitation incorporate the following provisions by reference, with the same force and effect as if given in full text. The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

| Requirement | Federal Agency with Enforcement Responsibilities |
|---------------------------------------------------------------|--------------------------------------------------------------------------|
| Occupational Safety and Health Act of 1970 (20 CFR Part 1910) | U.S. Department of Labor – Occupational Safety and Health Administration |