



REQUEST FOR PROPOSALS

Airport Advertising Concession

DUE DATE: August 25, 2020 - 3:00 PM



TRI-CITIES AIRPORT AUTHORITY

REQUEST FOR PROPOSALS (RFP)

AIRPORT ADVERTISING CONCESSIONS

1. INTRODUCTION

The Tri-Cities Airport Authority (TCAA) is soliciting proposals from qualified airport advertising concession firms (“Proposer” or “Respondent”) for the management and operation of the airport advertising concession program at the Tri-Cities Airport (TRI). The selected proposer will coordinate all phases of the advertising concession program at the airport, including developing a business strategy, creating a marketing and sales plan, making recommendations for capital improvements, selling advertising space, managing contracts, coordinating advertising displays and production, and monthly reporting.

The overall goal of the RFP is to provide all Airport users with an aesthetically pleasing environment which utilizes space in a way that optimizes advertising effectiveness and revenue generation.

The proposed agreement is for an initial term of five (5) years commencing on November 23, 2020, with three (3) one-year extensions, if agreeable to both parties.

2. SOLICITATION & PROJECT SCHEDULE

ACTIVITY	DATE
RFP Issue Date	Thursday, June 25, 2020
Pre-Submission Conference	Tuesday, August 4, 2020 at 2:00 PM
Question Deadline	Tuesday, August 11, 2020 – by 3:00 PM
Submission Due Date	Tuesday, August 25, 2020 – by 3:00 PM
Firm Interviews <i>(if necessary)</i>	Week of September 21, 2020
Contract Award	Thursday, October 22, 2020 – by 5:00 PM
Commencement of Contract	Monday, November 23, 2020

NOTE: All times are in Eastern Time

TCAA reserves the right to modify the schedule set forth in the above table at its sole discretion. Any such modifications will be stated in an addendum.

3. PRE-SUBMISSION CONFERENCE

DATE: Tuesday, August 4, 2020

TIME: 2:00 PM Eastern Time

LOCATION: Tri-Cities Airport, 2525 Highway 75, Blountville, TN 37617 – TCAA Board Room (Room 302) located in the Administrative Offices on the 2nd floor.

A voluntary pre-submission conference is scheduled for this request. Parking is available in the short-term lot and parking tickets will be validated at the pre-proposal meeting. Equal opportunity will be provided for all Respondents to ask questions.

The pre-submission conference purpose is to provide equal opportunity for Respondents to inspect the location, if applicable, and seek clarification to the solicitation. Attendees shall have fully reviewed all solicitation documents and correspondence prior to the pre-submission conference. The TCAA will respond to post pre-submission conference material inquiries at its sole discretion and in writing to respondents.

TCAA may require attendees to wear face coverings and/or take other protective measures to help prevent the spread of COVID-19. TCAA will follow the CDC and local health authorities' guidelines during the pre-submission conference.

Attendees requiring special services are asked to provide their requirements to the TCAA at least forty-eight (48) hours in advance to allow for accommodations.

4. AIRPORT INFORMATION & STATISTICS

The Tri-Cities Airport is a non-hub primary commercial airport located in Blountville, TN and is managed and operated by the Tri-Cities Airport Authority. The TCAA is tax exempt and a regional airport authority organized under Tenn. Code Ann. 42-3-104.

The terminal building is 119,000 square feet with a 23,000 square foot concourse including seven airline gates. Allegiant, American Airlines and Delta Air Lines provide nonstop service to five destinations: Atlanta, Charlotte, Dallas Fort Worth, Orlando Sanford and seasonally to St.Pete-Clearwater.

Commercial Passengers by Year

Year	Enplaned	Deplaned	Total
2009	214,250	212,961	427,211
2010	202,345	200,516	402,861
2011	222,082	221,295	443,377
2012	209,088	208,739	417,827
2013	201,677	201,415	403,092

2014	214,826	213,865	428,691
2015	218,738	215,016	433,754
2016	207,680	206,026	413,706
2017	195,684	194,842	390,526
2018	204,517	202,918	407,435
2019	225,350	222,780	448,130

5. WORK SCOPE

TCAA desires to optimize revenue opportunities through the advertising concession program. The program must reflect a unified design theme that complements and harmonizes with the airport and the region TRI serves. Firms with the ability to incorporate innovative advertising mediums are encouraged to submit a proposal.

The selected Proposer will coordinate all phases of the advertising concession program at the airport, including developing a business strategy, creating a marketing and sales plan, developing a schedule for implementation, making recommendations for capital improvements, selling advertising space and managing contracts, coordinating advertising displays and production, and monthly reporting.

The Proposer shall make recommendations for advertising media and display devices to be used. Ownership recommendations for advertising mediums is welcome and negotiable. Determination of ownership will be added to the final agreement between the Airport and selected Proposer.

Minimum Qualifications

Proposer must meet the following minimum qualifications:

- At least five (5) years of experience in airport marketing or airport concession management
- Demonstrated experience with similar advertising concession programs
- Certified DBE/ACDBE and/or demonstrated commitment to meet the project DBE/ACDBE goal of at least 1.4%.

Airport Responsibilities

The airport will provide/be responsible for:

- Use of airport conference room for sales purposes
- Airport parking validation for concessionaire and advertisers for sales meetings held at the airport
- Reviewing and approving all advertising submissions within three (3) days
- Upon award of contract, list of existing advertisers and available information relative to agreements and contact information.

6. REQUEST FOR INFORMATION/TCAA Contact Information

For more information or an alternate format of this RFP, please contact Kristi Haulsee at khaulsee@triflight.com.

Questions regarding this solicitation are to be submitted in writing to khaulsee@triflight.com prior to 3:00 PM Eastern Time on Tuesday, August 11, 2020.

TCAA reserves the right to publish and respond to an inquiry, respond directly to the inquirer without publishing, or not respond to the inquiry at its sole discretion.

It is the Respondent's responsibility to completely examine, understand, become familiar with and fully informed of the terms, conditions, and specifications of this solicitation. Lack of understanding or misinterpretation of any portions of this solicitation shall not be cause for withdrawal after opening or for subsequent protest of award.

Addendums will only be published by the TCAA Marketing Department and available for review under the Public Documents section of the Doing Business with TRI webpage: <https://triflight.com/about/business-with-tri/>.

7. SUBMISSION FORMAT

Submissions must contain, at a minimum, the following sections in the format shown below and should not exceed 21 pages, excluding Exhibits.

Executive Summary – Two (2) page maximum

Summarize the Respondent's strong points and how experience, particularly with similar responsibilities, will benefit TCAA. Include a company profile with a brief overview of the company's history, the number of years the company has been in operation, and industry experience with an emphasis on airport experience.

Business Organization – One (1) page maximum

State the full name and address of the organization, if applicable, branch offices, consultants, or other subordinate elements that will provide or assist in providing the service. Include phone number(s) and email address(es) and the Respondent's website address.

Business Plan – Twelve (12) pages maximum

State in succinct terms the Respondent's overall approach to managing the advertising program including:

- Overall management structure
- ACDBE participation plan
- Compensation to TCAA with sample monthly gross revenue report to be provided to TCAA
- Business strategy, including plan to maximize revenue and grow advertising program
- Capital improvement strategy and associated expenses

- Marketing strategy
- Advertising sales strategy, including transition plan, schedule and pricing strategy
- Recommended ownership of advertising mediums, displays, etc.
- Operating Procedures:
 - Communication with the airport and advertisers
 - Advertising placement strategy
 - Advertising management procedures, including advertising standards, approval processes, production process for advertising artwork, delivery and insertion of materials, contact and contract management, and reporting

Project Staffing – One (1) page maximum

Provide a chart with the staff you are committing to the solicitation. Show lines of authority and communication, and provide a brief role description with responsibilities for each person as they relate to the solicitation as well as each staff member’s key credentials.

References – Two (2) pages maximum

Provide a minimum of five (5) relevant references, preferably for projects of similar scope and complexity. Include the names of the projects, location, engagement dates, and specific challenges; identify project team members and references for each project including telephone numbers and email addresses.

Additional Information – Two (2) pages maximum

Additional information which the company may deem necessary to provide relevant information to a successful advertising concession program at the Tri-Cities Airport.

Qualified Signature – One (1) page maximum

The Proposer must sign their proposal correctly and in ink. If an individual submits the proposal, his/her name, office and Post Office address must be provided. If offered by a corporation, the person signing the proposal must give the name of the State of origin and the business address of the President, Secretary and Treasurer. Anyone signing a proposal as agent must file legal evidence of their authority to do so, and that their signature is binding upon the firm or partnership.

Exhibits:

A company representative authorized to bind the firm contractually must complete and each of the included Exhibits.

- A. Experience Record Form** *(Exhibit D of this RFP)*
- B. Certificate of Non-Discrimination** *(Exhibit E of this RFP)*
- C. Non-Collusion Affidavit** *(Exhibit G of this RFP)*
- D. DBE Assurance Statement** *(Exhibit H of this RFP)*
- E. DBE Letter of Intent** *(Exhibit I of this RFP)*

Guarantee

Each proposal must be accompanied by a refundable Certified Check, Cashier's Check or Bid Bond in the amount of \$5,000, payable to the Tri-Cities Airport Authority as a guarantee that if the proposal is accepted the Proposer will execute the proposed agreement within thirty (30) days from the date of the award of the contract by the TCAA. The \$5,000 guarantee will be returned to unsuccessful Respondents.

8. REQUEST FOR PROPOSAL SUBMISSION

Responses may be delivered physically or electronically. To be considered, complete submissions must be received in the Tri-Cities Airport Authority office located in the Administrative Offices on the second floor of the terminal building prior to Tuesday, August 25, 2020 by 3:00 PM Eastern Time.

- Hard copy responses may be mailed or otherwise delivered to the address noted below.

Tri-Cities Airport Authority
ATTN: Kristi Haulsee, Director of Marketing & Air Service Development
2525 Highway 75, Suite 301
Blountville, TN 37617

Hard copy submissions shall be submitted in a sealed envelope, clearly labeled TRI Advertising Concession, Respondent's name, telephone number, and company name.

- Electronic responses may be sent via email (24 MB limit), Dropbox, Microsoft 365 OneDrive, or other method for sharing documents.

Email Address: khaulsee@triflight.com

Electronic submissions shall be named TRIAdConcession_(insert portion of firm's name here). Example: TRIAdConcession_AirAdSales

Submissions may be withdrawn by written request only if the request is received prior to the proposal closing time. Negligence or mistake on the part of the Proposer shall not constitute a right to withdraw after closing time.

Late responses will not be considered. Corrections and/or modifications received after the closing time specified will not be considered.

If more than one proposal is offered by one party, all such proposals shall be returned unopened. If duplicate proposals are not discovered until after opening, such duplication shall be cause for immediate rejection of such proposals. A party who has quoted prices to a proposer is not thereby disqualified from quoting prices to other proposers or from submitting a direct proposal on his/her own behalf.

Sales and marketing material beyond the scope of this request will not be used to determine the award and is not desired. Each submission should be simply and economically prepared, providing a concise description of the Respondent's ability to perform the product or services requested. Emphasis should be on the completeness and clarity of content.

All submitting firms must be properly licensed to conduct business in the State of Tennessee.

Submissions that are incomplete, conditional, obscure or which contains additions not called for, or irregularities of any kind, may be cause for rejection of the bid.

TCAA is not liable for any costs incurred by any prospective Respondent prior to the awarding of a contract, including any costs incurred in addressing this solicitation.

Each submission must be signed by a person authorized to sign contracts on the behalf of the Respondent. The name of the person signing must be followed by title and date.

All proposals, including attachments, supplementary materials, addenda, etc. shall become the property of the TCAA and will not be returned.

9. EVALUATION CRITERIA

All properly completed proposals will be reviewed by an airport selection committee who will recommend a successful proposal for final approval of the Board of Commissioners. The selection committee may request a formal presentation prior to accepting any proposal.

The following criteria shall be considered by the airport selection committee upon the evaluation of proposals. Selection will be based on the best judgment of the selection committee in seeking the highest and best quality of services utilizing the following criteria as a guide:

Responsiveness to the Request for Proposal – Requested information was provided by Proposer in a clear and concise manner and evidences a clear understanding of the nature and scope of services being requested.

Design and Concept – Quality of Proposer's recommendations for improving, upgrading, maintaining, and operating the terminal advertising equipment.

Experience – Proposer's capability to provide the service; years in business; relevant advertising and in-terminal advertising management experience; experience of and qualifications of key personnel; and knowledge of and experience with purchasing, maintaining and upgrading advertising display mediums.

Marketing Strategy – Proposer must prove its ability to market and promote the program to local and national advertisers to maximize sales.

Sales Strategy – Proposer must show proven sales strategies and success, provide a transition plan, schedule and proposed pricing strategy.

Financial Capability to Provide the Services – Financial ability of Proposer to staff, equip and operate the in-terminal advertising program, along with a demonstrated financial history.

Financial Consideration Paid to Authority – Amount of minimum gross revenue or percentage (%) offered by Proposer.

10. EVALUATION, STATUS UPDATES/AWARD NOTIFICATION

Proposers must complete and return the entire Request for Proposal packet. Proposals will not be opened publicly.

All properly completed proposals will be reviewed by an airport selection committee that will recommend a successful proposal for final approval to the TCAA Board of Commissioners.

TCAA reserves the right to request additional information it may deem necessary after the submissions are received.

As part of the evaluation process, Respondents may be requested to make an oral presentation, at the Respondent's expense, to an evaluation committee. Key staff to be assigned to this project must participate in this presentation unless otherwise waived by TCAA. The presentation may be followed by a question and answer session. However, proposals may be accepted and approved without such discussion, at the Authority's discretion.

The TCAA will select the proposal that, in the Authority's sole judgement, is deemed the best and most advantageous for the public and for the TCAA. The decision of the Authority will be final and conclusive, subject to successful negotiation and execution of an Agreement.

TCAA reserves the right to reject any and all submissions and to waive an informality in the RFP process to the extent permitted by applicable law, and to accept any proposals, which in its sole discretion, is in the best interest of the Airport, if permitted by applicable law. Any omission, inaccuracy, or misstatement may be cause for rejection of a proposal. The TCAA further reserves the right to modify or incorporate additional steps in the evaluation process in the interest of having a thorough and comprehensive body of information in order to make a recommendation.

The Terminal Advertising Proposal is anticipated to be awarded following approval by the Tri-Cities Airport Authority at their regularly scheduled meeting on Thursday, October 22,

2020. Submitting organizations will be notified of proposal status via email by 5:00 PM Eastern Time on Thursday, October 22, 2020 and subsequently by written letter sent via the U.S. Postal Service.

The award will not be final and effective, nor shall the Tri-Cities Airport Authority be legally bound, until the fully executed contract is returned to the successful Proposer. In the event of a default of any of the successful bidders or his/her refusal to enter into an agreement with TCAA, TCAA reserves the right to accept the bid of the next qualified bidder.

II. TERMS & CONDITIONS

The selected firm will be required to enter into a written agreement with the TCAA on a form approved by the Authority's legal representative. The selected Proposer will be required to comply with all the requirements of the Agreement, which will be prepared in accordance with the successful proposal. Signature on the included *Experience Record Form* (Exhibit D) will serve as an acknowledgment that the proposer is willing to enter the agreement if awarded the contract.

TCAA reserves the right to require that its standard terms and conditions apply to any actual order placed in response to a Respondent's submission. No attempt to modify TCAA's Standard Terms and Conditions shall be binding, absent agreement on such modification in writing and signed by TCAA.

No payment shall be made to the Respondent for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless changes in or additions to the contract requiring additional outlay by the Respondent shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the TCAA.

The intention of the Request for Proposals specifications is to promote the properly designed and all-inclusive responses. Any requirements not in the specifications, but which are needed for such a response, are to be included in the submission.

The Respondent shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

The Respondent shall observe and comply with all applicable federal, state, and local laws, ordinances, rules and regulations at all times during the completion of any contract with TCAA.

The terms of this request shall be interpreted, construed and enforced pursuant to the laws for the State of Tennessee, and the parties irrevocably consent to the jurisdiction of the federal and state courts presiding in Tennessee.

Vendor Representation and Warranty Regarding Federal Excluded Parties List: The Respondent acknowledges that the TCAA may be receiving funds from or through the Federal Government; such funds may not be used to pay any Respondent on the Federal Excluded Parties List (EPLS). The Respondent represents and warrants to the TCAA that it is not on the Federal EPLS. If the Respondent is in non-compliance at any time during execution or term of this agreement (including any extensions thereof), the Respondent shall be in breach and the TCAA shall be entitled to all remedies available to it at law or equity, specifically including but not limited to recovery of all moneys paid to the Respondent, all consequential damages (including the loss of grant funding or the requirement that grant funding be returned; and attorney fees (including the costs of in-house counsel) sustained as a result of the Respondent's non-compliance with this warranty and representation.

Each bidder will be required to maintain minimum insurance requirements as detailed in the *Insurance Requirements* provision attached as Exhibit F.

Termination For Cause: Should the Respondent fail to perform the work as required by and in accordance with the schedule or time requirements, or otherwise violate any of the terms set forth in the Solicitation Request, it shall constitute breach of the Contract. Other than in force majeure situations, Respondent shall have thirty (30) calendar days to cure a breach of the Contract (the "Cure Period") following issuance of TCAA written notice. Failure to cure a breach of the Contract within said Cure Period shall allow the TCAA to, without further notice to the Respondent, declare the Contract terminated and proceed with the replacement of the Respondent and the TCAA shall be entitled to all remedies available to it at law or in equity including a claim against any required payment/performance bonds.

Termination Without Cause: Notwithstanding any other provision, at any time and without cause, TCAA shall have the right, in its sole discretion, to terminate the contract by giving sixty (60) days written notice.

Although it is the intent to contract with one provider, the TCAA reserves the right to contract with alternate sources if the Respondent is unable or unwilling to service its obligation, or it is deemed by TCAA to be in its best interest to use alternate sources.

Assignment: Neither party shall assign or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party.

Respondent warrants that they are an authorized provider of products or services of his/her submission.

12. Equal Opportunity

The Authority is an Equal Opportunity Employer in accordance with Title VI of the Civil Rights Act of 1964. Proposers are required to certify that the firm does not discriminate against any employee or applicant for employment on the grounds of race, color,

national origin or sex. The Proposer shall submit a completed and signed Certificate of Non-Discrimination with the Bid Document. See Exhibit B.

Minority and Woman Owned Businesses are encouraged to submit proposals.

The Authority will make every effort to ensure that all proposers are treated fairly and equally throughout the entire advertisement, evaluation and selection process. The procedures established herein are designed to give all parties reasonable access to the same basic information.

13. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Subpart F pertaining to the participation of Disadvantaged Business Enterprises ("DBEs") in Airport contracting opportunities. The Company agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.

The Authority is required to submit to the FAA a DBE Concession Plan every three years. The DBE goal for companies providing concessions for FY 2020 has been established at 1.4%.

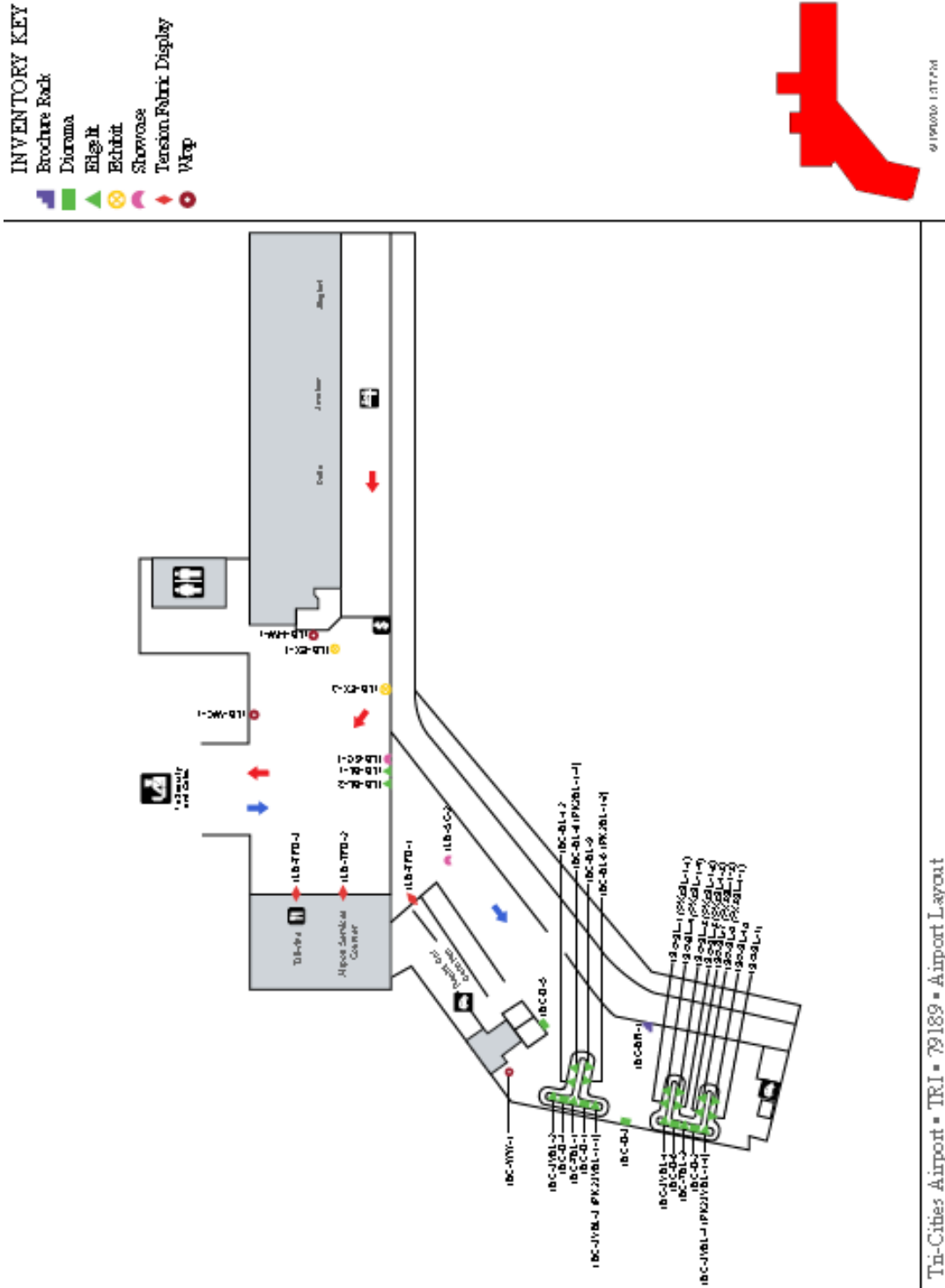
Bidders shall submit, in the format required and accepted by TCAA, a DBE Assurance Statement (Exhibit H) identifying the amount of DBE participation that each bidder expects to obtain for the first year of the agreement. Along with the Assurance Statement, each bidder is required to submit a signed DBE Letter of Intent (Exhibit I) for each subcontractor specifying the estimated dollar value to be paid to the subcontractor and counted toward the overall DBE goal.

In the event that a bidder is unable to obtain the current DBE goal, bidder must make good faith efforts as defined by the applicable regulation to meet the goal. Such efforts must be documented and submitted to TCAA with the bid submission.

14. ATTACHMENTS

EXHIBIT A

Map of existing program



© 1990/00 1:17PM

Tri-Cities Airport - TRI - 79189 - Airport Layout

EXHIBIT B

Current advertising displays in airport and sample photos.

CURRENT DISPLAY TYPES	QUANTITY
Fixed Backlit Displays – various sizes	26
Display Cases	3
Tension Fabric	1
Floor Exhibit	1
Brochure Rack	1

Sample Photos





EXHIBIT C

TCAA's airport concessions is currently managed by Clear Channel Airports. Below are estimated gross revenues based on reports provided to the Airport.

FISCAL YEAR	ESTIMATED GROSS REVENUES
2015	\$42,200
2016	\$61,005
2017	\$63,458
2018	\$67,142
2019	\$73,743

EXHIBIT D

Experience Record Form

PROPOSER _____

I. Background Qualifications and Experience

I (we) list below the advertising, marketing, sales, airport or businesses of a similar type which I (we) have directly operated in the past:

A. Year(s) Business Operated _____

B. Location of Business _____

C. Description of Operation _____

II. Financial ability of the proposer to comply with and perform contract:

III. Proposer's past performance of other contracts with the Authority:

IV. References

Provide five references relevant to the businesses listed above:

Proposer's Signature

Name

Date

Title

EXHIBIT E

CERTIFICATE OF NON-DISCRIMINATION

By Submission of Proposal to manage the airport advertising concession at Tri-Cities Airport, Blountville, Tennessee, the Proposer certifies that he/she does not discriminate against any employee or applicant for employment on the grounds of race, color, national origin or sex; and does not and will not maintain or provide for his/her employees any segregated facilities at any of his establishments, and, further, that he/she does not and will not permit his/her employees to perform their services at any location, under his/her contract where segregated facilities are maintained. He/she further agrees that he/she will obtain identical certifications from proposed sub-contractors prior to the award of sub-contracts and that he/she will forward a notice of this requirement to such proposed sub-contractors.

Business Name

(Signature) (Date)

(Printed or Typed Name and Title of Individual Signing for Proposer)

EXHIBIT F

INSURANCE REQUIREMENTS

General Liability coverage (which includes Premises and Property Damage) of at least \$1,000,000.00 combined single limit (CSL).

Operator shall furnish TCAA with a certificate or certificates from Operator's insurance carrier, executed on TCAA's standard form, showing such insurance to be in full force and effect, with said certificate or certificates to contain a provision that written notice of cancellation or any material change in said policy by the insurer shall be delivered to TCAA at least thirty (30) days in advance of the effective date thereof. In the event that Operator shall at any time fail to furnish TCAA with the certificate or certificates required, TCAA, upon written notice to Operator of its intention to do so, shall have the right to secure the required insurance, at the cost and expense of Operator, and Operator hereby agrees to reimburse TCAA promptly for the cost thereof plus Ten Percent (10%) for expenses of administration. All such insurance policies shall be maintained with an insurance company satisfactory to TCAA and shall include TCAA, the Airport's Owners, and TCAA's officers, agents and employees as additional named insureds, as their interests may result from this Agreement.

Operator shall, upon request, furnish to TCAA adequate evidence of provision for Workers' Compensation Insurance, Social Security and Unemployment Compensation, to the extent such provisions are applicable to Operator's operations hereunder.

EXHIBIT G

NON COLLUSION AFFIDAVIT

STATE OF _____

County of _____

* _____

of lawful age, being first duly sworn, on oath says, that (s)he is the agent authorized by the Proposer to submit the attached proposal. Affiant further says that: (1) the proposal filed herewith is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization, or corporation; (2) that such proposal is genuine and not collusive or a sham; (3) that said Proposer has not, directly or indirectly, induced or solicited any other Proposer to put in a false or sham proposal, and has not, directly or indirectly, colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham proposal, or that anyone else shall refrain from proposing; (4) that said Proposer has not in any manner, directly or indirectly, sought by Agreement, communication or conference with anyone to fix the proposal price of said Proposer or any other Proposer, or to fix any overhead, profit, or cost element of such proposal price of said Proposer or of any other Proposer, or to secure any advantage against the Tri-Cities Airport Authority (TCAA) or anyone interested in providing these services; (5) that the Proposer has not been a party to any collusion with any official of the TCAA or any employees of the TCAA concerning exchange of money or other things of value for special consideration in submitting a sealed proposal; (6) that all statements contained in such proposal are true; (7) and that the Proposer has not, directly or indirectly, submitted its proposal price or any breakdown thereof or the contents thereof, or divulged information or data relative thereto to other parties.

Firm Name

By: _____
Signature and Title*

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary Public

My Commission Expires: _____

*Owner, General Partner, LLC Manager, or Officer of the Corporation, Company Name and State

EXHIBIT H

DBE ASSURANCE STATEMENT
(Must be completed and printed on company letterhead)

Disadvantaged Business Enterprise (DBE) Program Participation Form

The _____ (Company), having submitted a proposal for the referenced airport contract, advises that, contingent upon award of the contract to our company as Concessionaire, we plan on Disadvantaged Business Enterprise (DBE) participation as follows:

DBE Subcontractors:

- 1) Name:
Work to be performed:
Dollar value:

- 2) Name:
Work to be performed:
Dollar value:

- 3) Name:
Work to be performed:
Dollar value

- 4) Name:
Work to be performed:
Dollar value

- 5) Name:
Work to be performed:
Dollar value

For this Contract, the total bid amount is \$_____.
The DBE goal is 1.4% for FY 2020. The total dollar value of DBE participation listed above is \$_____, which is _____% of the total bid amount. **A current updated copy of the DBE's UCA certificate must be submitted at the time of the bid.** The above-listed DBE(s) must be certified through UCA or the Tennessee State Uniform Certification Program. If you, the prime bidder, are certified as a DBE, the work you actually perform will be counted toward the DBE goal.

Sincerely,

EXHIBIT I

DBE LETTER OF INTENT
(Must be submitted for each DBE subcontractor)

CONCESSIONS
TRI-CITIES AIRPORT AUTHORITY

Name of bidder/offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ _____.

Affirmation

The above-named DBE firm affirms that it will perform work as stated above for the estimated dollar value as stated above.

By: _____

(Signature)

(Title)

If the bidder/offer does not receive award of a concession agreement, any and all representations in this Letter of Intent and Affirmation shall be null and void.

EXHIBIT J

Draft Airport Terminal Advertising Concession Agreement

AIRPORT TERMINAL ADVERTISING CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (“AGREEMENT”), is made and entered into as of the 23rd day of November, 2020, by and between the **TRI-CITIES AIRPORT AUTHORITY** (herein “Authority”), a Tennessee regional airport authority, organized and chartered pursuant to Tennessee law, the owner and operator of TRI-CITIES AIRPORT, 2525 Highway 75, Suite 301, Blountville, Tennessee 37617 (the "Airport"), and _____ (herein “Concessionaire”), a _____ corporation authorized to do business in the State of Tennessee.

RECITALS:

WHEREAS, the Authority operates the Tri-Cities Airport located at 2525 Highway 75, Blountville, TN 37617, in the 18th Civil District of Sullivan County, Tennessee, hereinafter called the "Airport"; and

WHEREAS, it is desire of the Airport Authority to contract for management of commercial advertising services within the Main Terminal Building and Concourse at the Airport; and

WHEREAS, the Concessionaire is a corporation engaged in the business of operating airport display advertising similar in nature to that proposed for the Airport; and

WHEREAS, the Concessionaire has submitted a proposal pursuant to a solicitation by the Authority, and Concessionaire has been selected by the Authority as the company to be awarded advertising concession rights in the Main Terminal Building, as well as the Concourse, both of which are hereinafter called the "Facility",

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and conditions contained in this Agreement and in the Authority’s Request for Proposals (including any subsequent addenda) and Concessionaire's Proposal, dated _____2020; all of which are hereby incorporated by reference and made a part hereof, Authority does hereby allow the use of certain premises and facilities hereinafter described, and Authority does hereby grant unto Concessionaire certain rights, licenses and privileges on and in connection with the Facility and Airport as follows:

ARTICLE I - ASSIGNED AREAS

Concessionaire shall have the use of floor and wall space, in the Terminal Building as it now exists or may exist during the Term, designated on the attached drawing hereinafter referred to as Exhibit "A", and those areas in the Concourse designated on the attached drawing hereinafter referred to as Exhibit "B", both of which are collectively referred to as the "Assigned Areas".

ARTICLE II - TERM

- A. The initial term of this Agreement shall be for a period five (5) years, beginning November 23, 2020, and ending on December 31, 2025.

- B. Authority reserves the right to offer and Operator reserves the right to accept or reject an option to renew for three (3) additional one (1) year periods which would commence on January 1, 2026. Both parties must agree that said renewal should occur; and, Concessionaire, in order to be eligible to accept said option and renewal, must meet all terms and conditions of this Agreement during the initial term of five (5) years and must satisfy the following performance criteria:
 - 1. At least 80% annual display case occupancy after the first Agreement year;
 - 2. Investment of no less than \$___ in initial capital and \$___ in additional start-up costs into the advertising program at the Airport;
 - 3. At least 500 telephone sales calls per Agreement year, which calls shall be documented by Concessionaire (subject to availability of displays for sale);
 - 4. At least 80% of displays to be of local Tri-Cities regional advertisers;
 - 5. Provide a sales force to ensure the Authority receives the benefit of national advertising campaign dollars;
 - 6. Provide ___% of advertising space for sponsorship, trade or in-kind advertising with local non-profits as directed by the Airport;
 - 7. Provide a CADD-certified display designer for use on the project as needed;
 - 8. Provide architect-approved engineering drawings for the project as needed;
 - 9. Provide properties personnel sufficient for display case relocation at Authority's request with 14 days notice;
 - 10. Provide maintenance staff and scheduling commensurate with facilities, with on-site availability within 24 hours upon Authority or Advertiser request;
 - 11. Provide graphic guidance to advertisers and obtain written approval by Authority of all graphic renditions prior to installation; and
 - 12. Assist the Authority in public relations efforts, including media release support.

- C. Upon expiration or earlier termination of this Agreement, Concessionaire agrees to cooperate fully with the Authority and with any and all successor concessionaires to ensure a smooth transition from the Concessionaire to such successor.

ARTICLE III - RIGHTS GRANTED

The Authority hereby grants to Concessionaire the following rights, uses, privileges and obligations in connection with its use of the Assigned Areas:

- A. The exclusive right, privilege and obligation to conduct and operate the display advertising concession in the Airport Terminal Building and the Concourse.
- B. The right (which shall extend to Concessionaire's employees, patrons, guests and invitees), in common with others, to use the public portions of the Airport and appurtenances thereto.
- C. The right (which shall extend to Concessionaire's employees, patrons, guests, invitees, suppliers of materials and furnishers of services, and their equipment, vehicles and other property), in common with others, of free ingress to and egress from the Facility over Airport roads, driveways and common areas, including employee parking lots, as the same shall be specified as such from time to time by the Authority.
- D. The right to peaceably have and enjoy said appurtenances, facilities, rights, licenses and privileges upon performance of the agreements hereunder on the part of the Concessionaire.
- E. The Concessionaire may utilize additional storage space identified by the Authority as available for such purposes, at the discretion of the Authority.
- F. The Concessionaire has the right to install and maintain appropriate signs in the assigned areas provided that the design, installation and maintenance of such signs shall be consistent with the graphic standards and policies of the Authority as they may be developed and amended, and shall have the written approval of the Airport's Executive Director prior to installation.

ARTICLE IV - RENTS, FEES AND CHARGES

- A. Fees and Charges - As Concession Fees for the concession rights herein granted, Concessionaire shall pay to the Authority for each quarter of each Contract Year during the term hereof **the greater of** (1) One-fourth of the minimum annual guarantee of \$___ (\$ per quarter) for each respective Contract Year during the initial Term, and one-fourth of the minimum annual guarantee of \$___ (\$ per quarter) for each respective Contract Year during the second five-year period; or (2) _____ percent (___%) of Concessionaire's Gross Receipts for advertising and advertising space during each quarter of the initial Term or any subsequent term.
- B. As used herein, the terms "Gross Receipts", "Gross Revenues" or "Gross Sales" shall mean the aggregate amount of all fees and charges paid or payable to Concessionaire, in the form of cash,

credit or otherwise, for advertising sales made and for advertising services rendered at or from the Facility, regardless of when or where the order therefore is received or delivered.

C. The Concession Fee shall be subject to reduction equal to Concessionaire's share of actual and prospective advertising revenues lost and unearnable where the Authority requires any removal or relocation of an advertising location (without the contemporaneous assignment to Concessionaire of a replacement location of at least equal passenger exposure and commercial advertising value) that results in ten percent (10%) or more of potential advertising revenues (based on Concessionaire's rate card) of the Assigned Areas shown in Exhibit "A", as may be amended by the parties, being eliminated at any time. Where a display case or other display advertisement in an Assigned Area was visually obstructed, subject to the re-routing of passenger traffic away from the Assigned Area so as to materially affect exposure, or subject to electric supply failure, for more than three (3) days without fault to Concessionaire, any amounts refunded to or withheld by affected advertisers shall not count towards Gross Revenues, and Concessionaire's share of such lost revenues shall be deducted from the Concession Fee payment to the Authority.

D. Subject to the terms herein, Concessionaire shall be entitled to reduce the Minimum Annual Guarantee and percentage of Gross Receipts paid to the Authority in accordance with the following schedule for each year that immediately follows a calendar year where annual enplanements at the Airport drop below 200,000 passengers:

<u>Previous CY Passengers</u>	<u>% to Authority</u>
150,001 -199,999	30%
100,000-150,000	25%
Less than 100,000	20%

E. Notwithstanding the foregoing definition, the following shall be excluded from "Gross Receipts":

1. The amount of any sales or other similar taxes collected by the Concessionaire on behalf of any Federal, State or Municipal authority;
2. Any amount paid by advertisers in connection with design, fabrication or installation of the advertiser's display;
3. Any amount paid by the advertisers to Concessionaire for telephone service;
4. Any amounts owed which are deemed to be uncollectible by Concessionaire after prudent collection efforts.
5. Any amount paid by the advertisers to Concessionaire for printing and stocking of brochures.

- F. Concessionaire shall pay the Percentage Fee to the Authority by the twentieth (20th) day of the month following each calendar year quarter of service. The Concessionaire shall furnish to the Authority for each calendar quarter a statement showing total Gross Receipts, deductions for each exclusion category claimed in Articles IV, (C), (D) and (E) above, the net amount due the Authority, and a check for the full amount due the Authority for the preceding contract quarter. Concessionaire shall include therewith, where applicable, invoices to verify improvement and display capital expenses.
- G. Without waiving any other right of action available to the Authority, in the event that Concessionaire is delinquent for a period of fifteen (15) days or more in paying the Authority any fees payable to the Authority pursuant to this Agreement, the Concessionaire shall pay to the Authority interest thereon at the rate of eighteen percent (18%) per annum from the date such amount was due and payable until paid. Such interest shall not accrue with respect to disputed amounts being contested in good faith by Concessionaire.
- H. In the event Concessionaire is unable, after diligent efforts, to collect amounts due from advertisers upon which Concessionaire had previously based Percentage Fee payments, such "bad debts" shall be deemed uncollectible and an appropriate adjustment shall be made in Concessionaire's subsequent statements and Percentage Fee submissions. If any "bad debts" are collected by Concessionaire after adjustment, then an appropriate readjustment shall be made to the revenue statement and Percentage Fee submission, excluding collection costs.
- I. Within one hundred twenty (120) days following the end of each Contract Year, Concessionaire shall furnish the Authority an annual report prepared by Concessionaire's in-house Certified Public Accountant in accordance with generally accepted accounting practices. Said report shall be based on Gross Receipts as defined in Article IV, hereinabove. In the event Concessionaire shall fail to furnish such written certification within the time specified, the Authority may give Concessionaire not less than thirty (30) days written notice of such failure, during which time Concessionaire may furnish such written certification without penalty; thereafter, the Authority shall procure a certified Schedule of Gross Receipts from an independent Certified Public Accountant, the cost of which shall be paid by Concessionaire.
- J. Concessionaire agrees to keep and maintain true, accurate and complete books and records of all its sales and other income received from the Concessionaire's operations hereunder, and that the Authority shall have the right to examine all pertinent records at any and all reasonable times for the purpose of determining the accuracy thereof, and of the reports required to be made in Article IV hereof. In the event that the Authority has cause to believe there is a discrepancy between gross sales reported by the Concessionaire and actual gross sales, or for any other reason the Authority deems necessary or prudent, the Authority may select a reputable certified public accountant to perform an audit of Concessionaire's business as is pertinent to the Airport. If said discrepancy is found in favor of the Authority, the Concessionaire will repay the unpaid concession fee, plus interest based upon one and one-half percent (1.5%) per month. In addition, if said unpaid concession fee is greater than three percent (3.0%) of

Concessionaire's annual gross sales for the year in which the period of discrepancy occurs, the full cost of the audit shall be borne by the Concessionaire.

- K. Concessionaire shall submit annually to the Authority a schedule of monthly rates to be applied to the advertising locations, with the understanding that advertising locations shall be subject to quantity purchase and other incentive discounts and to standard sales/advertising agency deductions or authorities.

ARTICLE V - OPERATIONS BY CONCESSIONAIRE

- A. Concessionaire shall develop and maintain a comprehensive advertising program totally integrated and coordinated as to design, quality, and content for the Facility. Under this program, the Concessionaire shall have the right to establish, operate, service, and maintain prime quality, professionally designed commercial advertising displays, including but not limited to floor exhibits, wall and floor back-lit units, product cases, brochure cases, posters, expo space, car and boat displays, direct telephone line hotel and transportation displays, electronic displays, computer displays, video displays, board advertising and other forms of advertising relating to an attractive and profitable means for the graphic display of materials, articles and services of various manufacturers, industries, companies and persons. The Concessionaire shall make recommendations for advertising media and display devices to be used.
- B. Concessionaire shall submit plans and specifications for the work to be performed pursuant to this Agreement ("Preliminary Plans") to the Executive Director for review. The Executive Director, in coordination with the proper committee of the Authority shall, within fourteen (14) days after receipt of any such Preliminary Plans, either approve or disapprove the Preliminary Plans. Review and approval by the Executive Director shall refer only to the conformity of such plans and specifications to the general architectural and aesthetic plan for the Assigned Areas and such approval shall not be unreasonably withheld. The Executive Director shall reserve the right to reject any Preliminary Plans or portions thereof submitted, and shall provide written notice to Concessionaire of the reason for such rejection with adequate specificity to allow Concessionaire to modify such Preliminary Plans accordingly.
- C. In the event of rejection of the Preliminary Plans or any portion thereof, the Concessionaire shall have up to fourteen (14) days to submit adequately revised Preliminary Plans for the Executive Director's review. Approval of the revised Preliminary Plans shall not be unreasonably withheld.
- D. Once approved by the Executive Director, the Preliminary Plans shall become the Final Plans. No changes or alterations shall be made to the Final plans after approval, except as may be agreed to in writing by the parties.

- E. The Concessionaire shall submit a schedule depicting the estimated time required to complete the construction and installation of the displays and improvements called for in the Final Plans. The Executive Director will issue a notice to proceed, and will coordinate the construction and installation of the approved displays with the termination of the preceding advertising contract.
- F. All work shall be at Concessionaire's sole cost and expense, and Concessionaire shall provide all necessary labor, supervision, materials, supplies and transportation. The ultimate control over the quality and acceptability of the finishes in the Assigned Areas will be retained by the Authority, and all improvements and finishes shall require the written approval of the Executive Director prior to installation.
- G. All permanent improvements to the Assigned Areas will be considered an integral part of the Facility, and shall be and remain the property of the Concessionaire until the expiration or earlier termination of this Agreement, at which time title to such permanent improvements will vest in the Authority, free and clear of any liens or encumbrances whatsoever. However, notwithstanding anything to the contrary in this Agreement, all non-permanent advertising displays, equipment, fixtures, materials and supplies of Concessionaire, which shall include, without limitation, telephone boards, wall displays and freestanding displays and display cases, shall remain the property of Concessionaire unless Concessionaire shall fail within sixty (60) days following the expiration or earlier termination of this Agreement to remove its property. In the event of such failure to remove non-permanent property, title to such property shall, at the option of the Authority, vest in the Authority at no cost to the Authority.
- H. Concessionaire agrees to use the Assigned Areas solely for the sale, placement and display of advertising products and shall use its best efforts in every proper manner to maintain, develop and increase the sales of advertising developed hereunder.
- I. All installations shall be in good taste, professionally developed, and presented so as to be inoffensive to the general public and of such high caliber as to contribute to the establishment of the Facility as a prestige location for commercial advertising media. Advertisement, advertising copy, advertising materials and manners of presentation ("Advertisements") shall be subject to the reasonable approval of the Authority. Concessionaire shall not display any Advertisements reasonably disapproved by the Authority. Concessionaire shall immediately remove from the Facility upon written demand of the Authority, at its sole cost and expense, any reasonably disapproved Advertisements. In the event that any so disapproved Advertisement is not removed promptly upon receipt of written demand, the Authority may remove and store said Advertisement. The Authority shall not in any way be held responsible or liable for any damage to any Advertisement so removed.
- J. Questions or complaints regarding the quality of service and/or prices, whether raised by patrons' or clients' complaints or on the Authority's own initiative or otherwise, may be submitted to the Concessionaire for response. Such response shall be provided by

Concessionaire within ten (10) working days. At the Authority's request, Concessionaire shall meet with the Authority to review any complaints or concerns regarding the advertising program. Concessionaire shall endeavor to satisfy all reasonable concerns of the Authority regarding the display advertising program.

- K. The specific locations for digital and backlit displays, product cases, poster boards, telephone boards and all other sites available for advertising use at the Facility ("Assigned Areas") are subject to selection and approval by the Executive Director, and are indicated on Exhibits "A" and "B", attached hereto and made a part hereof should the Authority and the Concessionaire disagree on any advertising locations, the Authority's decision shall be final. The Authority, however, shall provide sufficient acceptable advertising locations to allow Concessionaire to meet its Facility-related direct and indirect equipment, capital depreciation, administrative overhead and service costs from the proceeds of net advertising sales. Concessionaire shall have the exclusive advertising use of all Assigned Areas.
- L. The Concessionaire shall have a continuing right throughout the term of this Agreement to negotiate with the Authority for additional or revised locations of the Assigned Areas, which shall be subject to revisions from time to time based on the availability of advertising sites at the Facility and as may be mutually agreed upon by the parties. In such instance, Exhibits "A" and "B" shall be modified to show such revisions. All Assigned Areas selected are subject to relocation at any time at the Authority's discretion. Notice of such relocations shall be provided to Concessionaire in writing from the Executive Director no less than sixty (60) days prior to relocation. Subsequent costs and the financial impact to Concessionaire of such relocation shall be deducted by Concessionaire from subsequent Concession Fee payments.
- M. Concessionaire shall abide by and be subject to all reasonable rules and regulations which are now, or may from time to time hereafter, be formulated by the Authority concerning management, operation or use of the Airport.
- N. All Advertisements, improvements and equipment used in Concessionaire's operation shall conform in all respects to federal, state and local laws, statutes, ordinances and regulations.
- O. Concessionaire shall, at its own expense, identify, provide and maintain in force any and all licenses and permits required for the legal operation of all aspects of the Concession.
- P. Concessionaire's utility installation obligations will be limited to the initial electrical and telephone connections of signs and displays within the Assigned Areas only. Concessionaire shall pay for all monthly telephone service to the Assigned Areas.
- Q. The Concessionaire agrees to provide at its own expense such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of the Assigned Areas. The Concessionaire also agrees to keep and maintain the Assigned Areas in an attractive, neat, clean, safe and sanitary condition.

ARTICLE VI - OPERATIONS BY AUTHORITY

- A. The Authority shall provide finished floors, walls and ceilings for the Assigned Areas.
- B. The Authority will be responsible for providing, maintenance and upkeep of the following:
 - 1. All partitions about the perimeter of the Assigned Areas, all structural walls and supports, all structural roof construction, all structural floor construction and all exterior window walls designed about the perimeter of the Assigned Areas.
 - 2. All required electrical and other utility service to the Assigned Areas, except that, as provided in Article V, (Q) above, Concessionaire shall pay for all telephone service to the Assigned Areas.
- C. The Authority shall provide reasonable security protection for Concessionaire's equipment during the term of this Agreement, similar in nature to that afforded to other concessionaires at the Facility, and the Authority will issue and enforce rules and regulations with respect to all portions of the Facility.

ARTICLE VII - MAINTENANCE AND REPAIR

- A. Concessionaire shall at all times at its expense, keep the Assigned Areas, including all of the improvements installed by it, together with all of its fixtures, equipment and personal property therein in a clean and orderly condition and appearance, and shall keep the areas immediately adjacent to its leased premises and to the exits and entrances to the concession premises clean and free of obstructions.
- B. The Concessionaire agrees to maintain and make necessary general repairs to all of the Assigned Areas and to the improvements, fixtures and equipment therein, including, without limitation, signs, showcases, displays, and telephone boards. Concessionaire agrees to keep and maintain in good condition the electrical equipment located in the Assigned Areas. The Executive Director may, at his discretion, require the Concessionaire to affect repairs required of Concessionaire at the Concessionaire's own cost.
- C. In the event that concession improvements, or other furnishings or supplies constructed or installed by Concessionaire in any one or all of the various concession areas are damaged or destroyed, in whole or in part, due to Concessionaire's actions or inactions, or those of its employees or agents, Concessionaire shall forthwith proceed with the removal of the debris and damaged or destroyed improvements, equipment, furnishings and supplies, and thereafter shall proceed with all dispatch with the replacement of or the reconstruction work necessary to restore the same, including non-structural damage to the concession areas, to the condition they were in prior to the occurrence of such damage or destruction, and all costs and expenses incurred

in connection therewith that is not covered by insurance proceeds shall be paid by Concessionaire.

- D. Concessionaire will, upon termination of this agreement, deliver the Assigned Areas in good order, condition and repair, with ordinary, reasonable wear and tear and other unavoidable casualties excepted.

ARTICLE VIII - INDEMNIFICATION AND INSURANCE

- A. It is an express condition of this Agreement that, except where otherwise specifically provided or where caused solely by its negligence, the Authority, its appointed officials, officers, agents and employees shall be free from any and all claims, debts, demands, liabilities or causes of action of every kind or character, whether in law or in equity, by reason of any death, injury or damage to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Concessionaire, its agents or employees, or of any third persons, from any cause or causes whatsoever arising from any event or occurrence in or upon the Assigned Areas or any part thereof or otherwise arising from Concessionaire's operations under this Agreement; and Concessionaire shall indemnify and save harmless the Authority, its appointed officials, officers, agents and employees against and from any and all such claims, demands, debts, liabilities and causes of action (including attorneys' fees and costs).
- B. Concessionaire shall maintain in force during the term of this Agreement comprehensive general public liability insurance with a combined single limit of at least \$1,000,000 per occurrence for bodily injury and property damage. Such policy shall include contractual liability coverage for the indemnification obligation contained hereinabove, products hazard coverage, and broad form property coverage. Concessionaire further agrees to obtain and maintain in force during the term of this Agreement automobile liability insurance with a combined single limit for each accident of at least \$1,000,000 for bodily injury and property damage arising out of the use of Concessionaire's vehicles by Concessionaire's employees. All policies shall name the Authority and its employees as additional insured parties. A certificate or certificates executed on the Authority's standard form evidencing such insurance coverage shall be filed with the Authority at least thirty (30) days prior to the commencement date or at such other time as may be required by the Authority, and at least thirty (30) days prior to the expiration of any such policy. If such coverage is canceled, reduced or materially changed, Concessionaire shall, within fifteen (15) days after receipt of written notice from the Authority of such cancellation, reduction or adverse material change of coverage, file with the Authority a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.
- C. The Authority and Concessionaire hereby mutually release and discharge each other from all claims or liabilities arising from or caused by fire or other casualty covered by the aforementioned insurance on the terminal, leased premises, contents and personal property. All such policies shall include a waiver of subrogation with respect to the provisions of this agreement.

- D. Concessionaire shall maintain workers' compensation and employer's liability insurance in the amount and form required by the laws of the State of Tennessee. Concessionaire shall furnish a certificate of said insurance to the Authority certifying the Authority will be given thirty (30) days written notice of non-renewal, cancellation or other material change.
- E. Concessionaire shall not utilize this Agreement or its operating rights hereunder as collateral. Concessionaire shall not assign this Agreement, or its operating rights under this Agreement, or its right to occupy or use any improvements or fixtures it constructs or installs on or in its Assigned Areas, to a third party as collateral for a loan Concessionaire obtains from said third party, or to secure performance of Concessionaire's obligations under an agreement with said third party, or for any other reason whatsoever. Said assignment, or the attachment of any lien to the Airport Premises, shall be deemed to be a material breach of this Agreement and shall not be binding upon the Authority. Concessionaire shall pay all claims lawfully made against it by its contractors, subcontractors, material suppliers and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with the performance of work, and shall cause its contractors or subcontractors to pay all such claims lawfully made against them. Nothing herein contained shall be deemed to constitute consent to the duration of any lien or claim against the Premises, the operating rights granted hereunder, or any improvements thereto or thereon.
- F. Concessionaire agrees to operate and maintain its equipment in the facility in accordance with applicable local ordinances, state and federal statutes, and with the rules and regulations of the United States Environmental Protection Agency, the Tennessee Department of Health and Environment, the Tennessee State Fire Marshal, any applicable building codes and commonly accepted industry practices. Concessionaire further covenants that it will under no circumstances dispose of unused or contaminated fuel, oil, solvents, paint or other petroleum or petrochemical products of any type, whether liquid or solid, or any other material deemed a hazardous material, by dumping or burning by fire, either upon or off the Airport premises in any manner or fashion, but shall dispose of the same only in accordance with environmentally accepted practices and disposal procedures as set forth above. Notwithstanding any other provision of this Agreement, Concessionaire shall indemnify the Authority from any loss due to and shall be and remain liable to the Authority for any contamination of the Leased Premises by hazardous or toxic substances, including, without limiting the generality hereof, motor fuels and lubricants, paints, thinners, solvents and chemicals, that should occur as a result of negligence or actions of Concessionaire, its agents or employees during the term of this Agreement. Concessionaire's liability shall survive the termination of this Agreement by expiration of the term or otherwise.

ARTICLE X - ASSIGNMENT OF THE AGREEMENT

Concessionaire shall not assign this Agreement without the prior written consent of the Authority. However, in the event Concessionaire desires to sell the business that is the subject of this Agreement and the prospective purchaser is found by the Authority to meet all of the qualifications of the Authority for a new airport terminal advertising concessionaire, and purchaser agrees to assume all of the responsibilities of the assignor under this Agreement, then in that event the consent of the Authority to a request for assignment of this Agreement to said purchaser shall not be unreasonably withheld. In the event an assignment of this Agreement is approved by the Authority and all responsibilities of the assignor under this agreement are unconditionally assumed by the purchaser/assignee, then in that event the assignor shall be relieved of any further liability for minimum annual guarantees or rents under this Agreement.

ARTICLE XI - TERMINATION OF THE AGREEMENT

- A. The Authority shall have the right to terminate this Agreement at any time by providing Concessionaire sixty (60) days prior written notice.
- B. In the event that Concessionaire shall default in the payment of any sums when due hereunder, or shall default in the performance of any other covenant required to be kept by Concessionaire hereunder, and such default shall continue for a period of thirty (30) days after notice thereof from the Authority, acting by and through the Executive Director, to Concessionaire, or if Concessionaire shall make an assignment for the benefit of creditors or be adjudged a bankrupt, the Authority shall have the right to immediately terminate this agreement, and in the event of such termination, Concessionaire shall have no further rights hereunder. Nevertheless, Concessionaire shall continue to be responsible to the Authority for the minimum annual guarantee and rents as provided hereinabove, subject to any duty of the Authority to mitigate.
- C. The rights of termination described above shall be in addition to any rights and remedies that the Authority shall have pursuant to this Agreement or at law or in equity, and the exercise by the Authority of any right of termination shall be without prejudice to any other such rights or remedies.
- D. The Concessionaire shall have the right to cancel this Agreement upon ninety (90) days written notice to the Authority if the Authority fails to comply with the provisions of the Agreement and such failure is not cured within sixty (60) days of receipt of written notice from the Concessionaire.
- E. In addition to any other termination rights contained in this Agreement, this Agreement shall be subject to termination by Concessionaire in the event of any one or more of the following events:
 - 1. The permanent abandonment of the Airport as an air terminal.

2. The destruction of a significant portion of the Facility due to fire, earthquake or any other causes.
 3. The lawful assumption by the United States government, or any authorized agency thereof of the operation, control or use of the Airport, or any substantial part or parts thereof in such a manner as to substantially restrict Concessionaire from operating therefrom for a period in excess of ninety (90) days.
 4. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Airport provided that such injunction remain in force for a period in excess of ninety (90) days.
 5. If the number of combined enplaned and deplaned passengers at the Facility decreases fifty percent (50%) or more below the traffic recorded during calendar year 2019.
- F. In the event a termination occurs pursuant to clauses (E) 1. thru 5. above, the Concessionaire shall, in lieu of or in addition to termination of this Agreement, be granted an abatement of all of its obligations, fees and charges which may otherwise have been due the Authority from the outset of such terminable events until the cessation of such event of default.

ARTICLE XII - SECURITY

In accordance with the Airport Security Program and other security regulations and requirements by the U.S. Department of Homeland Security, transportation Security Administration, federal Aviation Administration or Authority, Operator agrees to assume authority and responsibility for pedestrian and vehicle access locations within the operating premises.

ARTICLE XIII - SUBORDINATION AND REVIEW

- A. This AGREEMENT shall be subordinate to the provision of any existing or future agreement between AUTHORITY and the United States of America relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. This AGREEMENT is subject to review by the Federal Aviation Administration and the parties shall modify this AGREEMENT as required pursuant to such review.

**ARTICLE XIV - REQUIRED CONTRACT PROVISIONS FOR NON-AIP
CONTRACTS**

(CONCESSIONAIRE REFERRED TO AS "OPERATOR")

A. GENERAL CIVIL RIGHTS PROVISION

A5.3 CONTRACT CLAUSE

A5.3.1 Authority Contracts

GENERAL RIGHTS PROVISIONS

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

B. CIVIL RIGHTS TITLE VI ASSURANCE

A6.3.1 TITLE VI SOLICITATION NOTICE (IF APPLICABLE)

The Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement that 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.

C. TITLE VI CLAUSES FOR COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

A6.4 CONTRACT CLAUSES

A6.4.1 Title VI Clauses for Compliance with Nondiscrimination

Requirements

Compliance with Nondiscrimination Requirements:

During the performance of this AGREEMENT, Operator, for itself, its assignees, and successors in interest agrees as follows:

- 1. Compliance with Regulations:** Operator (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 AGREEMENT.
- 2. Nondiscrimination:** Operator with regard to the work performed by it during the AGREEMENT, 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. Operator will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the AGREEMENT 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 Operator 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 Operator of the Operator's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4. Information and Reports:** Operator 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 Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Operator is in the exclusive possession of another who fails or refuses to furnish the information, the Operator will so certify to the Authority 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 an Operator's noncompliance with the non-discrimination provisions of this contract, the Authority 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 Operator under the AGREEMENT until the Operator complies; and/or
- b. Cancelling, terminating, or suspending the AGREEMENT, in whole or in part.

6. **Incorporation of Provisions:** Operator 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. Operator will take action with respect to any subcontract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Operator becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, Operator may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, Operator may request the United States to enter into the litigation to protect the interests of the United States.

D. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

A6.4.5 Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this AGREEMENT, Operator, for itself, its assignees, and successors in interest hereinafter referred to in this list 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 USC§ 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 USC § 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 USC§ 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 USC§ 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 USC§§ 12131-12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC§ 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 nondiscrimination 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 USC 1681 *et seq.*).

ARTICLE XV - NOTICES

A. All notices and other communications hereunder or in connection herewith shall be given in writing, and delivered by hand, U.S. Mail, or by a nationally-recognized overnight delivery company, all costs prepaid:

(i) **FOR THE AUTHORITY:**

Tri-Cities Airport Authority
ATTENTION: Gene Cossey
Executive Director

2525 Hwy. 75, Suite 301
Blountville, TN 37617

(ii) **FOR CONCESSIONAIRE:**

Notice shall be delivered to the above address by the other party, unless notice of a change of address is given to the other party in writing by the other at least ten (10) business days prior to the notice being sent.

ARTICLE XVI - WAIVER AND MODIFICATION

A. No failure to exercise and no delay in exercising any right, power, or remedy hereunder shall impair any right, power, or remedy that any party may have, nor shall any such delay be construed to be a waiver of any such right, power, or remedy, or any acquiescence in any breach or default hereunder; nor shall any waiver of any breach or default of any Party hereunder be deemed a waiver of any subsequent default or breach. All rights and remedies granted to any party hereunder shall remain in full force and effect notwithstanding any single or partial exercise of, or any discontinuance of, any action begun to enforce any such right or remedy. The rights and remedies specified herein are cumulative and not exclusive of each other or of any rights or remedies that any party would otherwise have. Any waiver, permit, consent, or approval by any party of any breach or default hereunder must be in writing and shall be effective only to the extent set forth in such writing signed by the party to be charged and only as to that specific instance. No modification of this AGREEMENT shall be binding unless

it is in writing and signed by the party against whom or which it is sought to be enforced.

ARTICLE XVII - GOVERNING LAW AND VENUE

- A. This AGREEMENT shall be governed by and construed under the laws of the State of Tennessee. Venue for any civil action arising from this AGREEMENT shall be the Circuit or Chancery Courts of the Second Judicial District of Tennessee or the United States District Court for the Eastern District of Tennessee at Greeneville, Tennessee.

ARTICLE XVIII - SEVERABILITY

- A. If for any reason, any section or portion of this AGREEMENT shall be held by a court of competent jurisdiction to be invalid or unenforceable, it is mutually agreed that this shall not affect any other section or portion of this AGREEMENT's enforceability and that the court shall have the authority to modify the terms of the AGREEMENT to cause it to be enforceable consistent with the intent of the parties.

ARTICLE XIX - INTEGRATION CLAUSE

- A. This AGREEMENT constitutes the entire agreement between the parties and there are no other oral or written agreements, understandings, restrictions, warranties or representations between the parties relating to this subject matter other than those set forth herein. This AGREEMENT supersedes all prior agreements, understandings, discussions, or negotiation relating to this subject matter. No course of prior dealing between the parties and no parole or extrinsic evidence of any nature shall be used or be relevant to supplement, explain, or modify any term used herein.

ARTICLE XX - ADVICE OF COUNSEL

- A. The parties hereby represent that they have been advised of the effect of this AGREEMENT by their own attorneys, or that they have had the opportunity to consult with an attorney of their choosing, have investigated the facts, and are not relying upon any representation or acknowledgment, whether oral or in writing, of any other party hereto except as contained herein. Further, the parties acknowledge that they freely enter into this AGREEMENT and expressly waive

any right to rescind this AGREEMENT. This AGREEMENT is a product of negotiation and preparation by and among each party. Therefore, the AGREEMENT should not be deemed prepared or drafted by one party or the other and shall be accordingly construed.

ARTICLE XXI - GENERAL PROVISIONS

- A. Concessionaire shall comply with all federal, state and local laws and ordinances, rules, regulations and orders applicable to the operations of the Airport or to the Concessionaire's operation at the Airport.
- B. Failure on the part of either party to this Agreement to enforce any of the terms and conditions herein shall not waive the right of either party to do so.
- C. This Agreement, along with the Request For Proposals, the Instructions to Proposers, the Qualification and Business Information Questionnaire, the Concessionaire's Proposal and Exhibits hereto, constitutes the entire Agreement between the Authority and the Concessionaire, provided however, that in the event any language or provisions contained in this Agreement conflict with language or provisions contained in the Request for Proposals, Instructions to Proposers, or Business Information Questionnaire or the Concessionaire's proposal, this Agreement shall control. No change in, modification of or supplement to this Agreement shall be valid or enforceable unless it is in writing and signed by the duly authorized representative of the Authority and Concessionaire.
- D. In the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided that the invalidity of such covenant, condition or provision does not materially prejudice either the Authority or Concessionaire in its respective rights and obligations contained in the other valid covenants, conditions or provisions of this Agreement.
- E. Neither the Authority nor the Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control.

ARTICLE XXII - ENTIRE AGREEMENT

- A. Except as otherwise set forth herein, this AGREEMENT embodies the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings relating to the subject matter hereof.

ARTICLE XXIII - MODIFICATION ONLY IN WRITING

- A. Neither this AGREEMENT nor any provision hereof may be changed, waived, discharged, or terminated, except by a subsequently executed instrument in writing, signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

ARTICLE XXIV - COSTS OF ENFORCEMENT

- A. If any legal action or other proceeding is brought for the enforcement of this AGREEMENT or because of an alleged breach or default in connection with this provision of this AGREEMENT, the successful or prevailing party shall be entitled to recover reasonable attorney fees, court costs and all expenses even if not properly taxable as court costs incurred in that action or proceeding in addition to any other relief to which such party or parties may be entitled.

ARTICLE XXV - NON-EXCLUSIVE REMEDIES

- A. In the event of a breach of any provision of this AGREEMENT, the parties, in addition to, and not in lieu of, the remedies expressly provided in this AGREEMENT, shall be entitled to exercise such remedies that exist at law or equity to enforce this AGREEMENT, including but not limited to seeking specific performance or injunctive relief.

ARTICLE XXVI - HEADINGS

- A. The headings of the sections of this AGREEMENT are for convenience only and do not in any way limit, amplify, or otherwise affect the covenants and agreements contained in this AGREEMENT.

IN WITNESS WHEREOF the parties have executed this AGREEMENT effective the date first above written.

TRI-CITIES AIRPORT AUTHORITY

By: _____
Chairman

CONCESSIONNAIRE

By: _____

Title: _____

APPROVED AS TO FORM:

Attorney for Tri-Cities Airport Authority

STATE OF TENNESSEE)

COUNTY OF SULLIVAN)

Before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, personally appeared _____, with whom I am personally acquainted and who upon oath acknowledged himself to be **Chairman** of the **Tri-Cities Airport Authority**, the within named bargainer, a Commission, and that he as such **Chairman** executed the foregoing instrument for the purposes therein contained by signing the name of the Commission by himself as **Chairman**.

WITNESS my hand and official seal, at office in the State and County aforesaid on this _____ day of _____, 2020.

Notary Public

My Commission Expires: _____

STATE OF _____)

COUNTY OF _____)

Before me, the undersigned authority, a Notary Public in and for the State and County aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who upon oath acknowledged himself/herself to be the _____ of _____, the within named bargainor, and that as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as _____.

WITNESS my hand and official seal, at office in the State and County aforesaid on this _____ day of _____, 2020.

Notary Public

My Commission Expires: _____

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