

Part III

SUPPLEMENTAL TERMS AND CONDITIONS TO ALL AIRPORT AGREEMENTS

I. Assurances.

A. Licensee shall furnish its services on a fair, equal and not unjustly discriminatory basis to all users of the Airport.

B. Licensee shall charge fair, reasonable and not unjustly discriminatory prices for each unit or services; provided that, Licensee may be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers. Non-compliance with this requirement shall be a material breach of this License for which the City shall have the right to terminate this License and any estate created herewith, without liability therefor; or, at the election of the City or the United States, either or both of said governments shall have the right to judicially enforce said requirement.

C. Licensee warrants 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 on or from the Premises, or otherwise be excluded from the benefits offered by Licensee to the general public.

D. As part of the consideration of this License, Licensee does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a DOT program or activity is extended for another purpose involving the provision of similar services or benefits, Licensee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Code of Federal Regulations, Title 49, DOT, Subtitle A, Office of the Secretary of Transportation, Part 21-Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights of 1964, as said regulations exist and may be amended from time to time.

In this License, the Covenant is hereby made a covenant running with the land for the term of the License, and is judicially enforceable by the United States.

E. As part of the consideration of the License, Licensee does hereby covenant and agree that:

1. No person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; and
2. In the construction of any improvements on, over or under such Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
3. That the Licensee will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts and Authorities.

In this License, the Covenant is hereby made a covenant running with the land for the term of the License, and is judicially enforceable by the United States.

F. The foregoing discrimination covenants are a material part of this License and for breach thereof the City shall have the right to terminate this License and to reenter and repossess the Premises and facilities thereon, and hold the same as if said License had never been made. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.

G. Licensee agrees to insert the foregoing six provisions (A-F) in any License by which Licensee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on or from the Premises.

H. Licensee agrees that it will undertake an **affirmative action plan** in conformance with 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment, contracting or leasing activities covered in 14 CFR Part 152, Subpart E. Licensee assures that no person will be excluded on such grounds from participating in or receiving the services or benefits of any program or activity covered by Subpart E. Licensee further agrees that it will require its covered suborganizations to provide assurances to Licensee that they similarly will undertake affirmative action programs and that they will require like assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E.

I. The City reserves the right, but is in no way obligated to Licensee, to develop or improve the landing area of the Airport as it deems appropriate, without regard to Licensee, and without interference or hindrance from Licensee.

J. The City reserves the right, but is in no way obligated to Licensee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Licensee in this regard.

K. Licensee acknowledges that this License is subordinate to any existing or future agreement between the City and the United States concerning the development, operation or maintenance of the Airport.

L. The License is subordinate to the reserved right of the City its successors and assigns, to occupy and use for the benefit of the public the airspace above the Premises for the right of flight for the passage of aircraft. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft through said airspace or in landing at or taking off from, or operation on an Airport.

M. Licensee agrees to comply with the notification and review requirements of

Federal Aviation Regulation Part 77 in the event future construction of a structure is planned for the Premises, or in the event of a planned modification of a structure on the Premises. Licensee covenants for itself, its successors and assigns that it will not erect or permit the erection of any structure or permit the growth of any tree, on the Premises above the mean sea level elevation that is defined as an object that effects navigable airspace as defined in Federal Aviation Regulations Part 77. As a remedy for the breach of said covenant the City of Kansas City, Missouri, reserves the right to enter upon the Premises and remove the offending structure or cut the offending tree, all at the expense of Licensee.

N. Licensee, by accepting this License, covenants for itself, its successors and assigns that no use will be made of the Premises that might in any manner interfere with the landing and taking off of aircraft from the Airport, or otherwise constitute a hazard to air navigation. As a remedy for the breach of said covenant, the City reserves the right to enter upon the Premises and cause the abatement of such interference, all at the expense of Licensee.

O. Licensee acknowledges that nothing contained in this License shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. Section 40103(e).

P. This License and all provisions hereof are subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation and taking-over of the Airport, or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.

II. Right to Amend.

In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, the Licensee agrees to consent to such amendments, modifications, revisions,

supplements, or deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required.

III. Immigration Reform and Control Act of 1986.

Licensee understands and acknowledges the applicability of the IRCA to it. Licensee agrees to comply with the provisions of IRCA as it applies to its activities under this License and to permit the City to inspect its personnel records to verify such compliance.

IV. Disadvantaged Business Enterprise Requirements.

To the extent that this License is covered by 49 CFR Part 23, Subpart F, Licensee agrees that this License is subject to the requirements of the U.S. Department of Transportation Regulations at 49 CFR Part 23, Subpart F. Licensee 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 License covered by 49 CFR Part 23, Subpart F.

Licensee agrees to include the foregoing statement in any subsequent License that it enters and cause those businesses to similarly include said statement in further agreements.

V. Restricted Areas/Security.

Licensee will comply with any and all applicable present and future rules, regulations, restrictions, ordinances, statutes, laws and/or orders of any federal, state or local governmental entity regarding airfield security. Licensee shall fully comply with applicable provisions of the Code of Federal Regulations (CFR) Title 49: Transportation. Licensee shall fully comply specifically with 49 CFR Part 1540 – Civil Aviation Security; 49 CFR Part 1542 – Airport Security; 49 CFR Part 1544 – Aircraft Operator Security: Air Carriers and commercial Operators (if Licensee is an air carrier); and 49 CFR Part 1546 – Foreign Air Carrier Security (if Licensee is a foreign air carrier). City has adopted a Security Plan for the Airport approved by the Transportation

Security Administration (TSA) pursuant to Department of Transportation (DOT) TSA CFR 49 1542. Licensee agrees to be bound by and follow the Airport Security Plan. Any access to the Airport granted to Licensee shall not be used, enjoyed or extended to any person, entity or vehicle engaged in any activity or performing any act or furnishing any service for or on behalf of the Licensee that Licensee is not authorized to engage in or perform under this License unless expressly authorized in writing by the Director in accordance with TSA CFR 49 1542. In the event Licensee, its officer, employees, invitees or Licensees cause or contribute to unauthorized persons or vehicles entering the air operations areas of the Airport, or otherwise violate the Security Plan or any laws, regulations, rules, etc. governing airport security, and in addition to any other remedies available hereunder, Licensee shall be liable to City for an amount equal to any civil penalty imposed on City for such violations and hereby agrees to indemnify City for any such federal civil penalties, provided City shall promptly notify Licensee in writing of any claimed violations so as to permit Licensee an opportunity to participate in any investigation or proceedings.

VI. General Civil Rights Provisions.

The Licensee 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 Licensee from the bid/RFP solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

If, Licensee transfers its obligation to another, the transferee is obligated in the same manner as the Licensee. This provision obligates the Licensee for the period during which the property is owned, used or possessed by the Licensee and the airport remains obligated to

the Guidelines for Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects Issued on June 19, 2018 Page 13 Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

VII. Civil Rights-Title VI Assurances.

Title VI Solicitation Notice:

The City, 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 or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises or airport concession 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.

Compliance with Nondiscrimination Requirements

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

1. Compliance with Regulations: The Licensee (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.
2. Non-discrimination: The Lessee/ 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 Lessee/ Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Licensee 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 City or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts and Authorities and instructions. Where any information required of a Licensee is in the exclusive possession of another who fails or refuses to furnish the information, the Licensee will so certify to the City or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a Licensee's noncompliance with the Non-discrimination provisions of this contract, the City 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 Licensee under the contract until the Licensee complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Licensee will include the provisions of paragraphs one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Licensee will take action with respect to any subcontract or procurement as the City or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Licensee becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Licensee may request the City to enter into any litigation to protect the interests of the City. In addition, the Licensee may request the United States to enter into the litigation to protect the interests of the United States.
7. For persons with Limited English Proficiency (LEP), please contact KCAD Airport Communications Center (ACC) at 816-243-4000 for help to obtain interpreters of many different languages.

VIII. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- 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 Nondiscrimination 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 non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 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); Guidelines for Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects Issued on June 19, 2018 Page 23
- 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).

IX. Additional Records Requirements. In addition to the requirements related to Records in Part II of this Contract, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives shall have a right to examine or audit all Records and Contractor shall provide access to them of all Records upon ten (10) days written notice.

X. Clean Air and Water Pollution Control. Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Contractor agrees to report any violation to the City immediately

upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Contractor must include this requirement in all subcontracts that exceeds \$150,000.

XI. Texting When Driving. In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the City encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

XII. ENERGY CONSERVATION REQUIREMENTS Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201et seq).

XIII. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage,

overtime pay, recordkeeping, and child labor standards for full and part time workers.

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

XIV. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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