

Metropolitan Airports Commission

REQUEST FOR QUALIFICATIONS

Passenger Air Service Development Consultant Services



**Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis Minnesota 55450**

Date Issued: June 17, 2025

Questions/Inquiries Due: June 25, 2025

Response Due: August 1, 2025

**Metropolitan Airports Commission
Request for Qualifications for
Passenger Air Service Development Consultant Services**

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I. INTRODUCTION

A. Welcome

Welcome to the Metropolitan Airports Commission (MAC) consultant selection process! We appreciate you taking the time to download and review this Request for Qualifications (RFQ).

The MAC owns and operates seven airports in the Twin Cities, including the Minneapolis-St. Paul International Airport (MSP) and its six diverse Reliever Airports. We work in an exciting and ever-changing world with high expectations and time demands. Given the limited number of in-house staff members, MAC and its Strategy and Stakeholder Engagement Division highly value our consultant partners and rely upon those teams to deliver a multitude of operational efforts and project types.

MAC welcomes submittals from all consultants meeting the enclosed RFQ prerequisites. There is no requirement that a consulting firm have previous work experience with the MAC, and the review team will conduct an unbiased evaluation of all submittals.

B. MAC Reservations

Submission of a Statement of Qualifications (SOQ) indicates acceptance by a proposer of the conditions contained in this RFQ.

MAC does not promise to accept the lowest fee structure or any other single factor and specifically reserves the right to reject any or all SOQs, to waive any formal SOQ requirements, to request additional information or clarifications from any proposer, to allow corrections in any SOQ, to investigate the qualifications and experience of any proposer, to reject any provisions in any SOQ, to obtain new SOQs, to select one or more proposer for all or part of the requested services, to negotiate the requested services and contract terms with any proposer or to proceed to do the work otherwise.

Incomplete or insufficient SOQs may be returned for completion or may be rejected by MAC.

Firms/Consultants responding to this RFQ are not entitled to compensation from MAC for any expenses incurred in preparing their submittal or by participating in this RFQ process.

All services provided by the successful proposer as a result of this RFQ, including information obtained and reports generated regarding airport-related issues, must be treated by the successful proposer as confidential and must not be divulged, in whole or in part, to any person other than to MAC, without prior written approval of MAC.

II. BACKGROUND INFORMATION

MAC was created by the Minnesota State Legislature in 1943 as a public corporation, to promote air navigation and transportation in and through Minnesota, promote the efficient, safe and economical handling of air commerce, assure the inclusion of the state in national and international programs of air transportation and, to those ends, develop the full potentialities of the Twin Cities metropolitan area as an aviation center. It has the responsibility to assure residents minimal environmental impact from air

navigation and transportation, promote the overall goals of the state's environmental policies and minimize the public's exposure to noise and safety hazards around airports.

MAC owns and operates one of the nation's largest airport systems. It includes Minneapolis-St. Paul International and six (6) general aviation airports. A 2016 economic impact study found the MAC delivers more than \$16.7 billion annually for the local economy and supports more than 90,000 jobs in the region. The MAC's airports connect the region to the world and showcase Minnesota's extraordinary culture to millions of passengers from around the globe who arrive or depart through MSP each year. Though a public corporation of the state of Minnesota, the organization is not funded by income or property taxes. Instead, the MAC's operations are funded by rents and fees generated by users of its airports.

MAC is governed by a board of fifteen commissioners. The Governor of the State of Minnesota appoints eight commissioners from designated districts within the Twin Cities metropolitan area. The Governor also appoints four commissioners from outside the metropolitan area and the board chair. The mayors of St. Paul and Minneapolis have seats on the board with the option to appoint a representative to serve in their place.

Based on Airport Council International's 2024 North American Airport Traffic Summary, MSP ranked as the 19th largest airport in North America in terms of total passenger volume, with more than 37 million passengers in 2024. MSP is home to 17 marketing airlines which includes a large Delta Air Lines hub, and the headquarters of ultra-low cost carrier Sun Country Airlines.

In November 2022, the MAC board approved the [2023-2027 enterprise strategic plan](#) that includes a purpose statement, set of values and focus areas. One of the enterprise strategic plan's focus areas is to "optimize financial performance while investing to sustain growth." MAC staff has identified increasing passenger air service as an important component in achieving this focus area and set a goal to "achieve 41 million passengers and add 25 net new nonstop destinations by 2027."

More detailed information about MAC can be found at its web site, www.metroairports.org.

III. NATURE OF SERVICES REQUIRED

A. Scope of Work

MAC is seeking the professional services of qualified consultants to provide passenger air service development consultant services. All consulting services will be performed under the direction of MAC's Director, Air Service Development.

The selected proposer must be able to provide MAC with the following services as needed and requested:

1. Advise and assist in the preparation of air service marketing documents and route forecasts for the purpose of attracting new air service to MSP.
2. Continually analyze air service patterns and conditions at MSP and provide data reports and analysis as requested by MAC.
3. Advise and assist with meetings with airlines, business community and destination marketing/tourism officials, chambers of commerce and other related organizations. Where necessary, assist with scheduling meetings with airline representatives.
4. Advise and assist with interpreting corporate travel data from the business community identifying current and future business travel needs.

5. Conduct studies to help identify and refine strategies for the recruitment and retention of air service at MSP.
6. Advise and assist with the preparation of an annual strategic plan documents for the purpose of outlining ongoing strategies and tactics to grow air service at MSP.
7. Advise and assist MAC regarding airline competition issues, governmental issues, bilateral agreements, and/or international air service issues.
8. Other related tasks deemed appropriate and timely by MAC.

B. Confidentiality

All services provided by successful proposer(s) as a result of this RFQ, including reports generated and information obtained regarding airport-related issues, must be treated by successful proposer(s) as confidential and must not be divulged, in whole or in part, to any person other than to authorized representatives of the MAC, without prior written approval from authorized representatives of the MAC except by testimony under oath in a judicial proceeding or as otherwise required by law, including the Minnesota Government Data Practices Act. The successful proposer(s) must take all necessary steps to ensure that no member of its staff or agent of its organization divulges any information concerning such services except as provided above.

If MAC discloses to the successful proposer(s) employees confidential and proprietary information pertaining to the MAC's past, present or future activities, then the successful proposer(s) must take appropriate measures to ensure that all information gained by each such person as a result of the services to be performed is proprietary to the MAC and is not to be disclosed to any organization or individual without the prior written consent of the MAC.

The successful proposer(s) agree(s) to take appropriate action with respect to its employees to ensure that the obligations of non-use and non-disclosure of confidential information concerning the contract can and will be fully satisfied.

IV. **STATEMENT OF QUALIFICATIONS – GENERAL INFORMATION**

A. General Instructions

MAC expects a concise Statement of Qualifications (SOQ) without unnecessary attachments, enclosures or exhibits. The SOQ shall be organized in the format indicated below. Each section of the SOQ should be clearly identified with appropriate headings in the order indicated below. SOQs that do not follow these instructions may be rejected or received lesser consideration.

B. Anticipated Schedule/Key Dates

The following are the key dates of the RFQ process. Please note that all dates may be changed as necessary.

June 17, 2025	RFQ Issued
June 25, 2025	Questions Due
August 1, 2025	Statement of Qualifications (SOQ) Due
September 16, 2025	Interviews of Finalists
October 6, 2025	Recommendation to Planning, Development and Environment

Committee
October 20, 2025 Approval by Full Commission

C. Format

1. The contents of the SOQ should include consecutively numbered pages.
2. The SOQ may not exceed 15 pages, exclusive of Title Page, Table of Contents, cover letter and any attachments.
3. Each proposer must submit their proposal electronically at <https://metroairports.bonfirehub.com/>. All materials should be combined into one PDF.

V. **STATEMENT OF QUALIFICATIONS – CONTENTS**

In order to facilitate and expedite the review process, it is recommended the SOQ include the following information and be organized in the following manner:

A. Title Page

The SOQ should include the request subject, the name of the proposer, address, phone number, name of the contact person and email address of the contact person.

B. Table of Contents

The SOQ should include clear identification of the material by section and page number.

C. Background Information/Business Profile

The SOQ should include the background and experience of the proposer, including type of ownership, length of time operating, and range of professional services offered.

D. Personnel & Staffing

1. Include the name, address, telephone number, fax number, and email address of the proposer's designated contact person.
2. Include a list of proposed personnel to work on this project, including names, telephone numbers and email addresses. Resumes of key personnel may be included as attachments to the SOQ.

E. Relevant Experience

Outline proposer's background and experience with the following, and provide an overview of the proposer's suggested approach, including how the proposer can work with MAC to ensure timely, high quality, cost-effective performance:

1. Identify years of experience consulting with large commercial service airports recruiting and securing new air service and maintaining strong air service.
2. Provide current roster of airport clients and airport size based on 2024 total passengers and the number of years consulting with each client.

3. Identify years of experience managing and maintaining professional relationships with domestic and foreign airline network planning executives or related disciplines.
4. Identify the major aviation/airline industry information sources and databases utilized and years of experience working with such sources/databases.
5. Identify years of experience working with and creating marketing strategies on behalf of commercial service airports with both local business community and destination marketing/tourism organizations.
6. Identify your view of MSP's top new air service opportunities on a short-term (1-3 years), medium-term (3-5 years), and long-term (5-10 years) basis. If selected for interview, be prepared to identify strategy to recruit the opportunities identified.

F. Fees & Expenses

Provide an itemization of the types of costs MAC may incur in obtaining services, including the specific hourly rates for all staff performing services, minimum billing time and types of reimbursable expenses with proposed charges.

G. Insurance

MAC will require the following insurance limits:

- Commercial General Liability with minimum liability limits of \$1 million per occurrence and \$2 million general aggregate. The policy shall contain the following by endorsement or terms and conditions of the policy.
- Metropolitan Airports Commission shall be included as an additional insured and the policy shall be primary and non-contributory.

H. Actual or Potential Conflicts of Interest

The SOQ must identify airports, airlines or other aviation related clients, as well as local units of government, with whom the proposer is currently under contract to provide consulting services and indicate the nature of the services provided.

The proposer must immediately advise MAC in writing of any real or possible conflicts that arise after the submission of the SOQ.

I. References

The SOQ must provide three (3) references that attest to the experience outlined in this RFQ. For each reference, include the name and address of the reference and the name, email address and telephone number of a contact person.

J. Certificate of Compliance

Prior to award of this contract, the proposer or proposer(s) selected must demonstrate compliance with the requirements of the Minnesota Department of Human Rights as outlined in Minn. Stat. §473.144 and Minnesota Rules, parts 5000.3400 to 5000.3600. See MAC's Certificate of Compliance form (Attachment 1) for more information. This form is not included in the page limit outlined above.

Questions regarding the Certificate of Compliance requirements should be directed to Tekia Jefferson, Director, Diversity, Equity and Inclusion, at 612.726.8196.

K. Equal Pay Certificate [only include for contracts anticipated to be in excess of \$500,000]

Prior to award of this contract, the proposer or proposer(s) selected must demonstrate compliance with the requirements of the Minnesota Department of Human Rights as outlined in Minn. Stat. §363A.44. See State of Minnesota – Equal Pay Certificate website at: www.mn.gov/mdhr/certificates/equalpay for more information.

Questions regarding the Equal Pay Certificate requirements should be directed to Tekia Jefferson, Director, Diversity, Equity and Inclusion, at 612.726.8196.

VI. SUBMITTAL

A. Questions/Inquiries

Questions or inquiries concerning this RFQ must be submitted by **1:00 p.m. central time on June 25, 2025**, on the MAC solicitation page <https://metroairports.bonfirehub.com/>.

Responses to all questions received in writing will be made via an addendum, which will be shared with all persons who have registered and downloaded the RFP from the MAC website: <https://metroairports.bonfirehub.com/>.

MAC may not respond to questions received after the above referenced date and time.

B. Due Date for Submissions/Location for Submissions

One electronic copy of the SOQ must be received by **1:00 p.m. central time on August 1, 2025**, via the MAC solicitation page at <https://metroairports.bonfirehub.com/>. Any SOQ submitted after 1:00 p.m. on that date may not be considered.

VII. SELECTION PROCESS

A. Review Team Evaluation/Interview(s) of Firm(s)

The SOQs will be reviewed by a review team of internal and/or external professionals. The proposer(s)/firm(s) identified as the most qualified to perform the requested services may be invited to attend an interview with the review team. The review team will make a recommendation of the most qualified proposer(s) to the Planning, Development and Environment Committee. That Committee will then make a recommendation to the full MAC Board of Commissioners, which makes the final decision.

Potential Interview Date: September 16, 2025
Time & Location: TBD, MSP International Airport

During the evaluation process, MAC reserves the right, where it may serve MAC's best interest, to request additional information or clarification from the proposers or to allow corrections of errors or omissions.

B. Completion of Selection Process

It is anticipated that this selection process will be completed on or around **October 20, 2025**, and that services could begin as early as **January 1, 2026**.

C. Length of Engagement

The successful proposer will be designated as a continuing consultant for a period of up to six years. Under current MAC policy, consultants must participate in an RFQ process once every six years.

An annual agreement (“Professional Services Authorization”) between MAC and the successful proposer will be subject to MAC’s Consultant policies. A draft copy of the Terms & Conditions of MAC’s Professional Services Authorization is attached (Attachment 2), along with MAC’s Consultant Expense Guidelines (Attachment 3). The agreement is subject to cancellation by either party on 30 days advance notice and includes no formal guarantee that any particular project or projects will be assigned to the proposer(s) chosen in this selection process.

D. Execution of Agreement

If the proposer does not execute an agreement with MAC within a reasonable amount of time after notification of its selection, MAC may select the next most qualified proposer or call for new SOQs, depending on which course of action MAC deems most beneficial.

VIII. AFFIRMATIVE ACTION/NON-DISCRIMINATION, EQUAL OPPORTUNITY & TARGETED GROUP BUSINESS

A. Affirmative Action

The proposer shall not discriminate against any employee or applicant for employment based on race or gender or because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The proposer agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified women, minorities, and people with disabilities without discrimination in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

The proposer agrees to comply with the rules of the Minnesota Department of Human Rights issued pursuant to Minn. Stat. §363A.37. In the event of the proposer's non-compliance with the requirements of this clause, actions for non-compliance may be taken by MAC in accordance with this contract.

The proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner of the Minnesota Department of Human Rights. Such notices shall state the proposer's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

The proposer shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the proposer is bound by the terms of Minn. Stat. §473.144 and Minnesota Rules, parts 5000.3400 to 5000.3600, and is committed to take affirmative action to employ and advance in employment qualified women, minorities, and people with disabilities.

B. Non-discrimination and Equal Opportunity

MAC does not discriminate in the selection of proposers on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age. The successful proposer must agree to comply with all applicable federal, state, and local equal opportunity and affirmative action laws, directives, and regulations.

C. Targeted Group Business

MAC acts affirmatively to promote and enter into contracts with targeted group businesses (TGBs). The MAC has adopted a Targeted Group Business ("TGB") program pursuant to Minn. Stat. §473.142. A TGB is a small Minnesota business which is at least 51 percent owned and controlled by women, people of color, and/or people with disabilities. The successful proposer must agree to ensure that TGBs and disadvantaged business enterprises (DBEs), as defined by applicable federal law, will have the maximum opportunity to participate in the performance of this contract whenever possible. The successful proposer will cooperate with MAC in meeting the Commission's commitments and goals with regard to the maximum utilization of TGBs/DBEs whenever possible in the performance of the services requested under this RFQ.

IX. MINNESOTA GOVERNMENT DATA PRACTICES ACT

A. Treatment of SOQ Data

All data submitted to MAC by proposers is governed by the Minnesota Government Data Practices Act. Under Minn. Stat. §13.591, at the time and date SOQs are due, the name of the proposer becomes public information. All other information in the SOQ, including any price information, does not become public until MAC has completed negotiating the contract with the selected proposer. Therefore, most information in the SOQ does not become public information until after the Commission awards the contract and the contract has been negotiated.

When the Commission has negotiated a contract with the successful proposer, the evaluative data (data created or maintained by MAC as part of the evaluation process) and information in all of the SOQs becomes public, with the exception of trade secret data. In order to qualify as trade secret data, all of the provisions set forth in Minn. Stat. §13.37 must be met. Trade secret data is:

government data, including a formula, pattern, compilation, program, devise, method, a technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

An assertion by a proposer that their SOQ is copyrighted or otherwise protected does not prevent public access to the data in the SOQ at such time that the data becomes public data under Minn. Stat. §13.591.

During the evaluation process, proposers cannot look at SOQs submitted by other proposers or data created by MAC as part of the selection or evaluation process. During that process, MAC staff, outside experts who have signed confidentiality agreements and MAC Commissioners may be informed of the data in the SOQs and may view the SOQs. Proposers may discuss their SOQs with MAC Commissioners, but MAC Commissioners are not able to reveal the contents of the other SOQs. During MAC's public Committee and Commission meetings, Commissioners are able to publicly discuss any information submitted in the SOQs to the extent reasonably necessary to conduct the

business at hand. The data, however, retains its classification as private or nonpublic until completion of negotiations.

If all responses to an RFQ are rejected by the Commission prior to “completion of the evaluation process,” all SOQ data, other than the names of the responders, remains private or nonpublic until a resolicitation of the RFQ results in completion of the evaluation process or a determination is made to abandon the process. If the rejection occurs after “completion of the evaluation process,” the data remains public. If a resolicitation of SOQs does not occur within one year of the SOQ opening date, the remaining data then becomes public.

In order to facilitate the treatment of data, please identify the items in your SOQ that are not public under Minnesota law (and only these items) by labeling those items on each page as “Not Public.”

B. Acknowledgement

By submitting a SOQ, the proposer acknowledges that all information is subject to potential disclosure and agrees that MAC will have no liability for any such disclosure.

In addition, the proposer acknowledges that an executed agreement (including a professional services authorization) with MAC is public data in its entirety, unless otherwise noted in the agreement.

C. Data on Individuals

Persons who supply data about themselves in response to this RFQ are entitled to know the following information under the Minnesota Government Data Practices Act:

1. The information requested will be used to evaluate the SOQs.
2. The proposer is not legally required to supply this information.
3. By supplying information, the proposer or individual may be selected to perform work for MAC.
4. Failure to supply information may result in a determination by MAC that the SOQ is non-responsive; and
5. The public is authorized by law to receive information that is not classified by law as private, confidential, or nonpublic data.

Attachment 1

**METROPOLITAN AIRPORTS COMMISSION (MAC)
WORKFORCE CERTIFICATE FORM
(For contracts that could be in excess of \$100,000)**

Complete the information as requested below.

Have you employed more than 40 full-time employees on a single working day during the previous 12 months?
_____YES _____NO If YES, complete question 2; if NO, move to the certification, below.

If your answer above is yes, please check one of the following statements.

_____ Yes, we have a current Workforce Certificate that has been issued by the State of Minnesota Commissioner of Human Rights. (Attach a copy of the Certificate.)

_____ No, we do not have a Workforce Certificate, however, we submitted an affirmative action plan to the State Commissioner of Human Rights for approval on _____, 20____. We understand that the plan must be approved by the Commissioner of Human Rights by such deadline established by MAC before any contract or agreement can be executed with MAC.

_____ No, we have not submitted a plan. We understand that if a plan is not submitted by such deadline established by MAC, our response will be rejected.

PLEASE NOTE: Affirmative action plans approved by the federal government, a county, or a city are NOT sufficient; such plans must still be received, reviewed, and approved by the MN Department of Human Rights.

For information on how to obtain a Workforce Certificate or for further information regarding Workforce Certificates, see <https://mn.gov/mdhr/certificates/workforce-certificate/>.

By signing this form, you certify that you are authorized to sign on behalf of the firm and that the information filled in is accurate.

NAME OF FIRM:	
AUTHORIZED SIGNATURE:	
TITLE:	
DATE:	TYPE OF WORK:

Attachment 2

PROFESSIONAL SERVICES AUTHORIZATION - TERMS AND CONDITIONS ("PSA") (06.2023)

These general terms and conditions are made a part of and are incorporated into the agreement between the MAC and Consultant.

1. **Minnesota Government Data Practices Act.** [Minn. Stat. § 13.05, subd. 11]. Consultant is notified that the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. ("the Act") places obligations upon Consultant. All data shared with MAC are subject to the requirements of the Act. In no circumstances will this PSA impair MAC's ability to comply with the Act. If applicable, Consultant will comply with the requirements of Minnesota Statutes, section 13.05, subdivision 11(a) with respect to all data created, collected, received, stored, used, maintained, or disseminated in the course of performance of this PSA ("Data"). The civil remedies of Minnesota Statute, section 13.08 apply to the release of Data. If Consultant receives a request to release Data, Consultant must immediately notify MAC and Consultant must not release the Data until receiving instructions to do so from MAC.
2. **Non-Disclosure.**
 - 2.1. *Confidential Information.* "Confidential Information" includes all information disclosed by MAC to Consultant in connection with the work conducted under this PSA, whether disclosed orally, visually, or in any tangible or electronic form and whether received before, on the date of, or after the signing of this PSA.
 - 2.2. *Non-Disclosure.* Confidential Information provided to Consultant will be held by Consultant in strict confidence and will not be disclosed, directly or indirectly, to any third party, except with the prior written consent of MAC or as specifically allowed by this PSA.
 - 2.3. *Permitted Disclosures.* Consultant may disclose Confidential Information to those of its representatives, consultants, and employees who have a need-to-know such information ("Third Parties"), provided that, prior to disclosure, Consultant will inform each Third Party of the confidential nature of the information and each Third Party must be bound as a condition of their employment, or have executed an agreement with Consultant sufficient to enable that Third Party's compliance with the terms of this Section 2 and Section 3. Third Parties will not make notes of, copy or reproduce any Confidential Information in any form, except as reasonably required for completion of their assigned tasks.
3. **Data Governance.** If the work conducted under this PSA requires a transfer of data from MAC to Consultant or access to information systems used by MAC, the following provisions apply. Upon written request from Consultant, MAC may, in its discretion, grant a written waiver of any of the requirements of Section 3.
 - 3.1. *Data License.* MAC grants to Consultant a limited, non-exclusive, non-transferable, non-sublicensable, royalty-free license during the Term of the PSA to use data provided by MAC solely for the conducting of work under this PSA ("MAC Data") and only for the purposes approved in writing by MAC at the time of transfer. Consultant agrees not to use MAC Data except as expressly authorized by the immediately foregoing sentence. Without limiting the generality of the foregoing, Consultant may not: (i) sell, lease, loan, sublicense, distribute, publish, or otherwise transfer MAC Data (even if deidentified and aggregated) or any accompanying documentation to any person, firm, or entity, except as agreed in writing by MAC; (ii) alter, modify, adapt, decompile, or reorganize MAC Data, except as agreed in writing by MAC; nor may Consultant (iii) use MAC Data (even if deidentified and aggregated) for its own promotional, developmental, or analytical purposes. In addition, Consultant may not publish or distribute MAC Data in any form to any third party or place the data onto any server that it is accessible via a public network.
 - 3.2. *Intellectual Property Rights (MAC Data).* Except for the licenses granted by MAC to Consultant in Section **Error! Reference source not found.** above, MAC retains all right, title, and interest in and to MAC Data and all intellectual property rights associated therewith. For the avoidance of doubt, all embodiments, incidents, and derivatives of MAC Data, including (without limitation) all copies, records, output, reports, compilations, collective or derivative works, presentations, diagrams, summaries and excerpts—to the extent they contain or are adapted from MAC Data--and regardless of whether in electronic or tangible form or represented or communicated in any other manner, are Developments subject to Section **Error! Reference source not found.**
 - 3.3. *Access to Data.* MAC may at any time suspend the access of Consultant to MAC Data and/or disable its access rights in the event of indications of misuse, unlawful conduct, or violation of this PSA, or other usage policies. MAC will not be liable to Consultant or any third-party for suspension of access to MAC Data, regardless of the grounds.
 - 3.4. *Security Requirements.* Consultant must share any information or access necessary for MAC to meet its regulatory compliance obligations with respect to cybersecurity including, but not limited to, any current or future FAA, TSA, or CISA security directive applicable to MAC. In addition, Consultant must, at all times, meet or exceed the following cybersecurity requirements:

- 3.4.1. *Maintenance of WISP.* At all times that Consultant has access to MAC Data or MAC information systems, Consultant must maintain a comprehensive Written Information Security Program (the “WISP”) commensurate with the size and complexity of Consultant, nature and scope of the PSA, and the sensitivity of the MAC Data used or maintained. The WISP must dictate information systems security requirements based on a documented risk assessment. The WISP must be in compliance with (i) relevant laws, regulations, orders, and rules. Consultant must maintain data security certifications indicating that the WISP meets or exceeds industry information security standards as required by relevant legal, regulatory and contractual requirements that otherwise apply to the services performed by Consultant.
- 3.4.2. *Employee Security Awareness.* Prior to being granted access to MAC Data or MAC information systems, and annually thereafter, all Consultant personnel must be provided with security awareness training to ensure their understanding of security policies and standards, and their responsibilities to protect MAC Data and Consultant’s or MAC’s information systems.
- 3.4.3. *Role-Based Access Controls.* Consultant must utilize role-based access controls for all information systems, (i) restricting access privileges to the minimum necessary for a user to perform authorized functions, and (ii) preventing access to MAC Data by non-authorized users.
- 3.4.4. *Encryption.* Consultant must encrypt MAC Data using strong encryption technologies while such information is at rest and during transmission using public networks or leased lines. MAC considers appropriate secured transmission technologies to be VPN, HTTPS, and SFTP. Consultant agrees that any File Transfer Protocol (FTP) activity containing MAC Data under the PSA must be conducted through an encrypted session connection for the duration of the term while files are transmitted. Consultant must cooperate with MAC in a timely manner and as may be required to de-encrypt such electronic transmission.
- 3.4.5. *Portable Devices and Mobile Computing.* Consultant will not allow its personnel to access MAC Data on or from laptops, mobile phones, or other portable storage and/or computing devices (“Devices”) without the express written consent by an authorized MAC representative. Notwithstanding the foregoing, Devices that encrypt the information at rest and in transit, utilize endpoint protection that includes a personal firewall and anti-malware protection, and utilizes multi-factor authentication are considered approved without further written consent required.
- 3.4.6. *MAC Data Loss Prevention.* Consultant must institute and maintain a data loss prevention (“DLP”) program, which shall include reviewing, detecting, and preventing unauthorized, unnecessary, and/or excessive disclosures, misappropriation, theft, or loss of information.
- 3.4.7. *Physical Security.* Consultant must maintain and apply physical security measures and safeguards for the ongoing protection of MAC Data, whether stored electronically or in another form. Consultant must: (i) maintain a documented facility security plan and conduct periodic reviews of access to Consultant’s facility and secure zones, (ii) maintain written procedures that restrict physical access to MAC Data and specify the manner and location in which such information shall be locked and stored, (iii) restrict secured physical access to all servers and computer production control areas to Consultant personnel responsible for the operation and maintenance of the hardware located in those areas, (iv) maintain cameras (e.g., CCTV) to monitor and record ingress and egress to sensitive areas, and (v) maintain processes for the review and retention of security logs.
- 3.4.8. *Cloud Computing.* To the extent MAC Data is hosted using cloud computing, Consultant must (i) use at least Database Management System (DBMS) layer encryption for such data when at rest, (ii) employ industry standard cloud security controls for access management, network security, data encryption at rest and in transit, and intrusion prevention, (iii) perform privileged user monitoring for such MAC Data, (iv) employ controls to ensure that MAC Data is logically separated from non-MAC data in all instances, including backup and removable media, (unless otherwise permitted in writing by MAC) (v) allow MAC Data to be deleted in accord with Section **Error! Reference source not found.**, and (vi) maintain a valid agreement with third parties providing cloud services for Consultant. Consultant must, upon MAC’s request, identify all third parties providing cloud services for Consultant that host MAC Data (“Cloud Vendors”). In connection with any cloud computing, Consultant must require the Cloud Vendor to use US domestic hosting regions for cloud instances that may host MAC Data. Consultant must also use the Cloud Vendor’s cloud computing solution that complies with the current requirements for computing for the U.S. federal government.
- 3.4.9. *Network Security.* All of Consultant’s network connections, including wireless connections, must be equipped with intrusion prevention capabilities, and must include firewall protection and intrusion detection in accordance with industry best practices. Consultant must have monitoring capabilities that: (i) detect system weaknesses, (ii) recognize anomalous user activity, and (iii) inform Consultant of newly discovered vulnerabilities. Consultant must perform monthly vulnerability scanning and annual network penetration testing. Consultant must remediate identified vulnerabilities to satisfy accepted industry standards. In addition, Consultants providing or developing customized software applications for MAC must regularly perform application and source code scanning and remediate identified vulnerabilities with industry standards.

- 3.4.10. *Logging and Monitoring.* Consultant must employ industry standard security controls and tools to monitor its information systems and log key events such as user activities (including root or administrative access), exceptions, successful and unsuccessful logins, access to audit logs, unauthorized information processing activities, suspicious activities and information security events. Consultant must (i) perform regular, routine log reviews and take necessary actions to protect against unauthorized access or misuse, (ii) regularly back up activity logs to secure central location(s), protected against tampering and unauthorized access, (iii) ensure that the clocks of all relevant information processing systems are synchronized using an authoritative national or international time source, (iv) incorporate date and time stamps into log entries, and (v) retain activity logs in accordance with regulatory requirements. In the event of a security incident, Consultant must make log events specific to MAC Data available for review by MAC within twenty-four (24) hours of request by MAC.
- 3.4.11. *Patch Management.* Consultant must operate an effective security patch management program whereby security patches will be applied within a reasonable timeframe, consistent with industry standards and practices and based upon the level of security risk, from the point of discovery. To the extent a given risk is not remediated through patch application within a reasonable timeframe, Consultant must implement compensating controls to mitigate the risk until the security patch(es) are applied.
- 3.4.12. *Limitations on Processing of MAC Data.* Consultant must not use MAC Data in a non-production environment, such as development, testing, or quality assurance environments. However, MAC Data may be used in non-production environments used solely for recovery purposes, so long as those environments otherwise meet all applicable requirements of Section **Error! Reference source not found.**
- 3.4.13. *Risk Assessments.* Consultant must, as required by the WISP and in compliance with all applicable laws, regulations, orders, rules and contractual requirements, perform ongoing risk assessment. On written request by MAC, for each facility of Consultant that processes MAC Data or has access to MAC Data, Consultant must provide to MAC access to all risk assessments, audits, examination and summaries of test results performed periodically by Consultant, or by their external auditors or security consultants, relating to the information security measures, involving each such facility having such access, including access to the relevant portions of any applicable Service Organization Controls ("SOC"), or similar reports.
- 3.4.14. *Security Risk Assessments.* At request of MAC, Consultant may be asked to submit to a security risk assessment before either obtaining access to or receiving any MAC Data or MAC information systems or deploying custom software in a MAC-controlled production environment. Consultant agrees to cooperate in good faith and at Consultant's sole cost and expense during any security risk assessment or investigation initiated by MAC.
- 3.4.15. *Duty to Report.* If any report, inspection, risk assessment, or security risk assessment identifies material gaps or weaknesses in Consultant's WISP or its ability to secure MAC Data, Consultant must notify MAC and provide MAC with a reasonable period of time to correct the gap or weakness, and if such measures are not satisfactory to MAC, MAC may suspend Consultant's access to or use of MAC Data until such issues are resolved to the mutual satisfaction of Consultant and MAC. Any such suspension by MAC will not be a breach of this PSA.
- 3.4.16. *Subsequent Assessments.* Consultant may be required by MAC to complete a new security risk assessment but in no event more than once every twelve (12) months unless a security incident occurs or material gaps in security are identified.
- 3.4.17. *Assessment Requirements.* During any security risk assessment, Consultant must provide MAC access to a SOC 2 Type 2 with HITRUST aligned with NIST CSF report, or in an alternative form agreed to by MAC, as evidence demonstrating the effectiveness of the WISP.
- 3.4.18. *Retention.* For the lesser of six (6) years or until two (2) years after this PSA is terminated (unless such PSA is renewed), Consultant must maintain, and provide access for MAC's review upon MAC's request, (i) the WISP (including all versions thereof), in effect during all times during which Consultant had access to MAC Data or any of MAC's information systems; and (ii) all other material policies, procedures and other documents related to MAC Data and MAC's information systems of or accessible by Consultant.
- 3.4.19. *Subcontracting.* To the extent Consultant is permitted to subcontract pursuant to the PSA, Consultant agrees to identify all relevant subcontractors (including suppliers and all sub-processors). Consultant further agrees that it will have in place with any relevant subcontractor sufficient agreements or proof of compliance to give effect to Consultant's obligations under this PSA. Further, Consultant must cooperate with MAC requests for information concerning such relevant subcontractors, including but not limited to, nature of services provided, location, and date of last security assessment. MAC reserves the right to require the performance of a risk assessment on Consultant's relevant subcontractors based on the nature of information to which such relevant subcontractors may have direct or indirect access, at no cost to MAC. Consultant expressly acknowledges that Consultant is liable to MAC for its relevant subcontractors' compliance with this Section 3.
- 3.4.20. *Offshoring.* Consultant will not use offshore computing or storage resources, meaning computing or storage resources located in any physical location outside of one of the fifty United States or one of the United States Territories (i.e., American Samoa, Guam, Northern Marianas, Puerto Rico, and Virgin Islands).

- 3.4.21. *Continuous Monitoring.* During the term of the PSA, Consultant may be requested to respond to, inform and provide updates regarding specific high-risk security gaps or exposures that exist for new or emerging security vulnerabilities that are made publicly known for systems, applications, hardware devices, etc. Consultant will promptly respond to such MAC requests and will provide specific details as to the questions asked to ensure that MAC can evaluate the risk or exposure to MAC Data.
- 3.5. *Security Incident Response.*
- 3.5.1. *Security Incident.* “Security Incident” means any compromise (actual or suspected) of the confidentiality or integrity of MAC Data or information systems used by Consultant to store, transfer, or otherwise process MAC Data; or any unauthorized access to, disruption or misuse of any Consultant information system used by Consultant to store, transfer, or otherwise process MAC Data or unauthorized access to, disruption or misuse of MAC Data.
- 3.5.2. *CSIRT.* Consultant must establish and maintain a Computer Security Incident Response Team, or—if unable to form a team—an individual designated as responsible for computer security (in either case, the “CSIRT”). The CSIRT must be responsible for (i) investigating Security Incidents, (ii) reporting to MAC any information regarding Security Incidents, (iii) resolving any Security Incidents, and (iv) improving the information security program based on Security Incidents.
- 3.5.3. *Notice.* The CSIRT must notify MAC of any Security Incident, without unreasonable delay, but in no event later than twenty-four (24) hours after Consultant's confirmation of the Security Incident, or such shorter notice period as required by law.
- 3.5.4. *Security Incident Responsibility.* Consultant must, at no cost to MAC, repair and/or compensate MAC or third-parties for any damage or loss caused by the Security Incident and assist MAC in complying with any breach notification requirement to which it is subject. Consultant also agrees to cooperate with MAC in the resolution of any Security Incident.
- 3.6. *Retention.* Consultant will comply with any data retention periods set by MAC for MAC Data. If no retention period is given for a category of MAC Data, Consultant will retain that category of data for the term of the PSA. Upon termination of this PSA (unless such PSA is renewed), Consultant will: (1) return and deliver to MAC all MAC Data and any Development containing or derived from MAC Data, and (2) delete and cause to be deleted from all computers and other systems and devices all MAC Data and any Development containing or derived from MAC Data in a manner that the same cannot be retrieved, and (3) verify such deletion and destruction to MAC under oath in writing.
- 3.7. *Disclaimer of Warranties.* Use of MAC Data is at Consultant’s sole risk. MAC does not warrant that access to MAC Data, or any content, will be uninterrupted. MAC makes no representations or warranties, express or implied, with respect to the use of, or reliance on, MAC Data, regardless of its format or means of transmission. There are no guarantees or representations to the user as to the accuracy, currency, completeness, suitability, or reliability of MAC Data, for any purpose. MAC Data could contain technical inaccuracies or typographical errors. Consultant accepts MAC Data “as is,” and assumes all risks associated with its use. MAC assumes no responsibility for any damages resulting from, caused by, or associated with Consultant’s reliance on or use of MAC Data, or for the delay or inability to use MAC Data, even if appraised of the likelihood of such damages occurring.
- 3.8. *Compliance Audit.* MAC may, upon reasonable notice, conduct a verification of Consultant’s compliance with the terms of Section 2. and Section 3. Consultant must provide to MAC such information as MAC may reasonably request and give MAC or its representatives access to Consultant’s records, personnel, and facilities in order to conduct the verification.
4. **Intellectual Property Rights (Developments).** Any inventions (whether patentable or not), copyrights and copyrightable works, information, designs, construction contract documents, know-how, data, and findings developed by Consultant or delivered to MAC under this PSA (collectively, “Developments”) are owned by MAC, and Consultant assigns all intellectual property rights in the Developments to MAC. To the extent that any work product delivered to MAC under this PSA includes any invention, design, know how or copyrightable work that Consultant developed prior to this PSA or other than in connection with the services provided under this PSA (“Pre-Existing Works”), Consultant grants MAC a non-exclusive, perpetual, worldwide, royalty-free irrevocable right and license to make, use, sell, offer for sale, create derivative works from and otherwise use such Pre-Existing Works in connection with the Developments and any derivative of the Developments.
5. **Injunctive Remedies.** In addition to any other remedies, MAC may, without posting bond or other security, receive injunctive and other equitable relief to enforce the provisions of Section **Error! Reference source not found.**, **Error! Reference source not found.**, and **Error! Reference source not found.**; and it will not be a defense to any request for such relief that MAC has an adequate remedy at law. If MAC is successful in any application for injunctive or other equitable relief, Consultant will pay MAC the expenses MAC incurs in obtaining such relief including, without limitation, reasonable legal fees and disbursements, court costs and the cost of appellate proceedings.
6. **Payment Audit.** [Minn. Stat. § 16C.05, subd. 5.]. Consultants and subcontractors to this PSA must keep, in a system acceptable to MAC, accurate books, accounts, records, and documents relevant to the work conducted under this PSA for a period of six calendar years. MAC and the Legislative Auditor may inspect the books, accounts, records, documents, interview current and former employees, accounting procedures and practices relative to the work conducted under this PSA. Contracts entered

into with subcontractors must contain this same contract audit clause. Consultants must pay all audit costs when an audit discloses overcharges exceeding one percent (1%) of the total contract.

7. **Reimbursable Expenses.** Reimbursement for travel and subsistence expenses actually and necessarily incurred by Consultant as a result of any work conducted under this PSA will only be reimbursed in the manner and in no greater amount than is provided for in the current “MAC Out of Town and Local Expense Guidelines” available from the MAC Finance Coordinator.
8. **Prompt Payment.** [Minn. Stat. § 471.425]. MAC agrees to pay Consultant within thirty (30) days of the completion of its audit of a properly received, valid invoice. If an invoice is incorrect, defective, or otherwise improper, MAC will notify Consultant within ten (10) days of discovering the error and will pay Consultant within thirty (30) days of the completion of its audit of a properly received, corrected invoice from Consultant. Payments not made within thirty (30) days after the date MAC’s audit of the invoice is completed, unless contested by MAC, will bear interest at a rate of one and one-half percent (1.5%) per month unless otherwise provided in Minn. Stat. § 471.425. Such interest will begin to accrue thirty (30) days following MAC’s audit of the invoice, or corrected invoice, is completed.
9. **Subcontractor Prompt Payment.** [Minn. Stat. § 471.425, subd. 4a; Minn. Stat. § 473.142(f)] Consultant must pay to each subcontractor to this PSA within ten (10) calendar days of Consultant’s receipt of payment from MAC for undisputed services provided by the subcontractor. If Consultant does not make said payment to any subcontractor within the specified time, Consultant must pay interest to the subcontractor in the amount of one and one-half percent (1.5%) per month, or any part of the month, on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of one-hundred dollars (\$100) or more is ten dollars (\$10). For an unpaid balance of less than one-hundred dollars (\$100), Consultant must pay the actual penalty due to the subcontractor. To the extent a subcontractor provides for earlier or larger payments, Consultant shall make payment to the subcontractor as provided for therein irrespective of the date or amount of any payment made by MAC. A subcontractor who prevails in a civil action to collect interest penalties from Consultant must be awarded its costs and disbursements, including attorney fees, incurred in bringing the action. Anything to the contrary in the PSA notwithstanding, this Section 9 is for the benefit of any subcontractor to this PSA and confers upon any subcontractor all remedies, claims, reimbursements, causes of action, and other rights granted to it by this Section 9.
10. **Warranties.**
 - 10.1. *Industry Standards.* Consultant must perform the duties and services under this PSA in accordance with industry standards established by those engaged in a business similar to that of Consultant.
 - 10.2. *Service Warranty.* Consultant warrants that all duties and services under this PSA will be performed in a safe, good, and workmanlike manner.
 - 10.3. *Licenses, Permits, Authorizations, and Notices.* Consultant warrants that it has obtained and will maintain at its sole cost and expense all federal, state, and local licenses (including professional licenses), permits, certificates, and authorizations, and shall provide all required notices, necessary for Consultant to perform the duties and services under this PSA.
 - 10.4. *Warranty for Infringement.* Consultant warrants that it has, or will obtain, all the necessary licenses and authorizations to use any third-party intellectual property necessary to perform the professional services contemplated by this PSA, or any third-party intellectual property that will be incorporated into any product used in connection with these services or report delivered to MAC. Consultant warrants that no product used in connection with these services; nor report delivered to MAC; nor the use, sale, disclosure, execution, reproduction, modification, adaptation, distribution, performance, or display thereof; to the extent permitted under this PSA; knowingly infringes or misappropriates any patent, copyright, trade secret, or other intellectual property right of any third party.
 - 10.5. *Infringement Indemnity.* If any services contemplated by this PSA give rise to an actual or claimed infringement or misappropriation of any patent right, copyright, trade secret, or other intellectual property right, or for any other reason, then Consultant will, at Consultant’s option and expense, perform any of, or any combination of, the following: (a) defend or, at its option, settle any claim that Consultant has infringed or misappropriated any patent, copyright, trade secret or other intellectual property right of any third party; (b) procure for itself the right to continue; (c) replace or modify its services so that Consultant is not infringing or misappropriating, provided that the replacement or modified services conform to all requirements of this PSA; or (d) cancel this PSA and reimburse MAC for all reasonable and documented amounts expended procuring alternative services.
11. **On-Premises Work.** If the services provided to MAC under this PSA require Consultant, Consultant’s agents, a subcontractor of Consultant’s, or any of that subcontractor’s agents to enter premises owned by MAC, Section **Error! Reference source not found.** applies.
 - 11.1. *Security.* Consultant at its own expense must abide by all Transportation Security Administration (“TSA”) or MAC security requirements, ordinances or security directives, including but not limited to, security badge qualifications, access, display, and use, restrictions on sale of dangerous items and limited security area access abilities.
 - 11.2. *Penalties Assessed by the TSA.* Consultant understands and agrees that in the event the TSA assesses a civil penalty or fine against MAC for any violation of Transportation Security Regulation or other federal statute as a result of any act or failure to act on the part of Consultant, its agents, or its subcontractors or subcontractor’s agents, Consultant will reimburse MAC in the amount of the civil penalty assessed plus any costs for defending the civil penalty, including

reasonable attorneys' fees. MAC will provide Consultant notice of the allegation, investigation or proposed or actual civil penalty. Failure of Consultant to reimburse MAC within one hundred twenty (120) days of receipt of written notice of the assessed civil penalty shall be an event of default under this PSA.

12. **Compliance with Laws, Regulations, Ordinances, Rules.** Consultant shall comply with all laws, regulations, ordinances, and rules of the Federal, State, and local government including those of the MAC, which may be applicable to performance of this PSA.

13. **Indemnification.**

13.1. *General.* To the fullest extent permitted by law, Consultant agrees to indemnify, hold harmless, and defend MAC, its commissioners, its officers, employees or agents, and any successor or successors to MAC's interest (collectively "Indemnitees") against all losses and liabilities, or claims thereof, from third-parties arising out of or related to services covered by this PSA, or acts or omissions of Consultant or an agent or subcontractor of Consultant's in carrying out this PSA (hereinafter, "Loss"). In addition, Consultant agrees to bear all reasonable costs of the investigation of and defense against any Loss, including without limitation, the fees of attorneys, consultants, experts, and investigators. Notwithstanding the foregoing two sentences, Consultant is not obligated to indemnify nor defend an Indemnatee against any Loss to the extent a court of competent jurisdiction decides, or MAC and Consultant mutually in writing agree, such Loss resulted from an Indemnatee's sole negligence or intentional acts.

13.2. *Notice.* MAC will give Consultant reasonable notice of any Loss. In indemnifying or defending an Indemnatee, Consultant must use legal counsel reasonably acceptable to MAC. MAC, at its option and expense, may select its own counsel or approve joint counsel, as appropriate, and any experts for the defense against any Loss. Consultant, at its expense, must provide to MAC electronic or physical data and give access to any persons reasonably necessary to investigate and defend against any Loss.

13.3. *Insurance.* The furnishing of the required insurance hereunder does not limit Consultant's obligations under this Section **Error! Reference source not found..**

13.4. *Insurance Indemnification.* As a distinct and separate indemnification obligation, Consultant agrees to indemnify, hold harmless, and defend the Indemnitees from any Loss arising out of Consultant's failure or alleged failure to procure and to keep in force the insurance required as part of this PSA.

13.5. *Insurer Instructions.* Consultant must comply with all requirements imposed by the insurers for MAC and Consultant.

13.6. *Insurer Obligations.* This indemnification is intended for the indemnified parties and their legal representatives. The provided indemnification is not intended to relieve a primary insurer of its coverage obligations.

13.7. *Survival.* The provisions of this Section **Error! Reference source not found.** survive expiration or earlier termination of this PSA.

14. **Insurance.** Consultant must comply with the insurance requirements set forth on the attached PSA Insurance Requirements Form prior to the start of work. Such PSA Insurance Requirements Form is hereby incorporated into this PSA by reference.

15. **Affirmative Action Requirements.**

15.1. *Affirmative Action Requirements for the PSA if in Excess of \$100,000 and if Consultant has More than 40 Full-Time Employees in Minnesota or in its Principal Place of Business.* If the payments made by MAC to Consultant under this PSA exceed, or are contemplated to exceed, \$100,000 and if Consultant employed more than forty (40) full-time employees on a single working day during the twelve (12) months previous to the PSA's execution either in Minnesota or in the state where it has its primary place of business, then Consultant must comply with the requirements of Minnesota Statute, section 363A.36 and Minnesota Rules Part 5000.3400 through Part 5000.3600.

15.1.1. *Minn. Stat. § 363A.36.* Minnesota Statute, section 363A.36 requires Consultant to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in the event of a revocation. A contract awarded without a certificate of compliance may be voided.

15.1.2. *Minn. R. Part 5000.3400 through Part 5000.3600.* Minnesota Rules Part 5000.3400 through Part 5000.3600 implement Minnesota Statute, section 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota Rules Part 5000.3400 through Part 5000.3600.

15.1.3. *Affirmative Action for Disabled Workers. [Minn. R. Part 5000.3550].* (a) Consultant must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. Consultant agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection

for training, including apprenticeship. (b) Consultant agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act. (c) In the event of Consultant's noncompliance with the requirements of this Section 15.1.3, actions for noncompliance may be taken in accordance with Minnesota Statutes, section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act. (d) Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state Consultant's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees. (e) Consultant must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Consultant is bound by the terms of Minnesota Statutes, section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

15.2. Affirmative Action Requirements for the PSA if in Excess of \$500,000 and if Consultant has More than 40 Full-Time Employees in Minnesota or in its Principal Place of Business.

15.2.1. *Minn. Stat. § 363A.44.* If the payments made by MAC to Consultant under this PSA exceed, or are contemplated to exceed, \$500,000 and if Consultant employed more than forty (40) full-time employees on a single working day during the twelve (12) months previous to the PSA's execution either in Minnesota or in the state where it has its primary place of business, then Consultant must comply with the requirements of Minnesota Statute, section 363A.44. If applicable, Minnesota Statute, section 363A.44 requires Consultant to have an Equal Pay Certificate. Such Equal Pay Certificate must be obtained prior to the execution of the PSA. If Consultant was required to have an Equal Pay Certificate, but did not obtain one, the Commissioner may void the PSA on behalf of the state. Upon revocation of Consultant's Equal Pay Certificate, MAC may abridge or terminate this PSA.

15.3. *Consequences.* The consequences of Consultant's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this PSA by the Commissioner or the state.

15.4. *Consultant Certification.* Consultant hereby certifies that it is in compliance with the requirements of Minnesota Statute, sections 363A.36, 363A.44, and Minnesota Rules Part 5000.3400 through Part 5000.3600, if applicable, and is aware of the consequences for noncompliance.

16. **Equal Employment Opportunity Assurances.** The Consultant shall comply with Executive Order No. 11246, entitled "Equal Employment Opportunity" (41 CFR, Part 60), and shall have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, sex and age, and which specifies goals and target dates to assure the implementation of that plan.

17. **General Civil Rights Provisions.** In all its activities within the scope of its airport program the Consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. The above provision binds the Consultant and subcontractors from the bid solicitation period through the completion of the contract.

18. **Civil Rights – Title VI Assurance.** During the performance of this contract, the Consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "Consultant") agrees as follows:

1. *Compliance with Regulations.* The Consultant will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. *Nondiscrimination.* The Consultant, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. *Solicitations for Subcontracts, including Procurements of Materials and Equipment.* In all solicitations, either by competitive bidding or negotiation made by the Consultant 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 Consultant of the Consultant's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. *Information and Reports.* The Consultant 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 MAC or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant will so certify to MAC 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 the Consultant's noncompliance with the non-discrimination provisions of this contract, MAC 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 Consultant under the contract until the Consultant complies; and/or
- (b) Cancelling, terminating, or suspending a contract, in whole or in part.

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

19. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") 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 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- 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 § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (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, subcontractors, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (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) 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 (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. 74087 (2005)];
- 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).

20. **Subordinate to the Federal Government.** This PSA is subordinate to the provisions of and requirements of any existing or future agreement between MAC and the United States, relative to the development, operation, or maintenance of the airports under MAC's jurisdiction and control ("Airports"). This PSA and all the provisions hereof are subject to whatever right the United States Government now has, or in the future may have or acquire, affecting the control, operation, regulation, and

taking over of the Airports or the exclusive or non-exclusive use of the Airports by the United States during the time of war or national emergency.

21. **Acceptance Not a Waiver of Breach.** The acceptance of the goods or services subject to this PSA is not a waiver of any right of action that MAC may have for breach of warranty or any other cause.
22. **No Waiver of Terms.** Any waiver of any provision of this PSA is not a waiver of that right or any other right or provision at any future time, unless expressly stated in writing.
23. **Right to Cancel.** MAC may cancel this PSA with or without cause, upon thirty days prior written notice, with no further obligation except for payment of amounts due and owing for work performed and expenses incurred to the date of termination.
24. **Non-Appropriation.** This PSA is subject to the budget and fiscal provisions of MAC's Bylaws and Minnesota Statutes. No charge will accrue under this PSA unless and until funds are properly appropriated by MAC to fund the charge. This PSA will terminate without penalty, liability, or expense of any kind to MAC if funds are not appropriated to pay for a cost generated under this PSA. If funds are appropriated for a portion of the costs incurred under this PSA, this PSA will terminate, without penalty, liability, or expense of any kind once the appropriated funds are expended. MAC's Board of Commissioners has no obligation to make appropriations for this PSA. MAC budget decisions are subject to the discretion of the Executive Director/CEO and the Board of Commissioners. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this PSA.
25. **Third Parties.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties to this PSA or subcontractors under this PSA, any right to remedies, under or by reason of this PSA.
26. **Assignment.** Consultant must not assign this PSA without the prior written consent of the MAC.
27. **Governing Law & Venue.** This PSA is to be construed and governed in accordance with the laws of the State of Minnesota (without regard to the principles of conflicts of law embodied therein). In the event that litigation is required to settle any dispute relating to this PSA, the litigation will be held solely in the federal and state courts located in Hennepin County, Minnesota. Consultant and MAC assent to the jurisdiction and venue of those courts.
28. **Notices.** All notices, demands, elections, requests, and other communications required or permitted under this PSA ("Notice") must be in writing. Any Notice given by a party's attorney is Notice given by such party, provided that, in the case of outside counsel, such party has reasonably communicated the existence of the attorney's representation of the party to the recipient of the Notice. All Notices are delivered: (a) if sent by messenger, upon personal delivery to the party to whom the Notice is directed; (b) if sent by United States mail (prepaid certified or registered, return receipt requested, correctly addressed), three (3) business days after being so mailed; (c) if sent by electronic mail on (i) the business day sent so long as such electronic mail Notice is sent within business hours (i.e., 8:00 a.m. Central time – 5:00 p.m. Central time) on that business day, or (ii) the next business day if sent after business hours on the business day sent or sent on a day other than a business day, and in either case upon confirmation of transmission generated by the sender's computer or acknowledgement of receipt by the party to whom such electronic mail Notice is sent; or (d) if sent by overnight courier, with request for next business day delivery, on the next business day after sending; addressed to the person designated on Exhibit A (or to such other address as the parties may specify by fifteen (15) days' advance Notice given pursuant to this Section **Error! Reference source not found.**).
29. **Entire Agreement.** This PSA, the PSA Insurance Requirements Form, any incorporated signed master agreement for services between the Parties, MAC's RFP/RFQ/bid solicitation, and Consultant's, statement of work, proposal, or bid response represent the entire agreement between the parties and supersede any prior agreements regarding this work. This PSA may only be modified if done in writing and executed by both parties. In the event of any inconsistency or conflict between or among the provisions of the listed documents, such inconsistency or conflict must be resolved by reading the documents as listed in descending order of preference.
30. **Severability.** Invalidity of any provision of this PSA will not affect the enforceability or validity of any other provision.
31. **Consultant's Authorized Representative.** Consultant's authorized representative must execute this PSA. By executing, Consultant's authorized representative attests that he or she has authority to bind Consultant with respect to each obligation undertaken by Consultant pursuant to this PSA.
32. **Counterparts.** This PSA may be executed in any number of counterparts, each of which is considered an original. Valid execution occurs when the signature page is executed by the Consultant and countersigned by MAC.
33. **Signatures.** The parties agree that the electronic signatures, whether digital or encrypted, by their respective signatories are intended to authenticate such signatures and to give rise to a valid contract.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this PSA has been executed by the METROPOLITAN AIRPORTS COMMISSION and by the Consultant.

METROPOLITAN AIRPORTS COMMISSION

By _____
Title _____
Date _____

[CONSULTANT]

By _____
Title _____
Date _____
By _____
Title _____
Date _____

EXHIBIT A: PSA NOTICE ADDRESSES

If to MAC: Metropolitan Airports Commission (“MAC”)
Attn:
6040 28th Avenue South
Minneapolis, Minnesota 55450-2799
Email:

If to Consultant: Business Name: (“Consultant”)
Attn:
Address:
Email:

Attachment 3

MAC CONSULTANT EXPENSE GUIDELINES

These Guidelines apply if a consultant contract with the Metropolitan Airports Commission (MAC) allows for reimbursement of the types of expenses noted below.

To be eligible for reimbursement, consultant expenses must be reasonable, necessary, and actual expenses incurred while performing work authorized by MAC, and as directed by MAC staff. Costs to be reimbursed must be presented as described below.

A. AIR TRAVEL

Air travel and baggage fees will be reimbursed if there is prior approval from MAC staff (director level or above). Air travel shall be basic economy or main cabin level (or similar) on both domestic and international flights. MAC will not reimburse for first class, flight insurance, seat selection, upgraded seats, or pre-boarding fees. However, a seat upgrade to Delta Comfort (or similar) is reimbursable for international travel and all direct flights over four hours of flying time. Itemized airline ticket receipt with itinerary must be included with the expense report, along with baggage fee receipts.

B. LODGING

Hotel room rates will be reimbursed if there is prior approval from MAC staff (director level or above). Rates must be reasonable and consistent with the facilities available. Receipts must be submitted. Gratuities for lodging will not be reimbursed.

C. MEALS

Meals (not including alcoholic beverages) incurred by a consultant while traveling out of town on MAC business will be reimbursed by MAC using Per Diems, so no meal receipts are required. The meals Per Diem is \$54.00 each day while in travel status (includes tax and reasonable gratuity). There is no other reimbursement for meals beyond the Per Diem for a consultant.

D. LOCAL TRANSPORTATION

If practical, local transportation services shall be utilized rather than a rental car. Taxi or other provider receipts are required for reimbursement. When an automotive rental is necessary a subcompact or a compact car is the recommended vehicle. Car rental and gas receipts must be submitted. Reasonable gratuities shown on receipts will be reimbursed.

E. PERSONAL AUTOMOBILE USE

Commission business-related personal automobile mileage will be reimbursed at a rate not-to-exceed the current IRS rate. That rate will be provided upon request. Miles driven between home and a normal work location are not eligible for reimbursement. Information submitted to MAC must include:

- Origin, destination, date, and mileage of each trip
- Parking expenses (attach receipts)

F. OTHER BUSINESS EXPENSES

If any other consultant business expense is submitted to MAC for reimbursement, documentation of proof of expense and reason for the expenditure must be included.