



# Bismarck

## AIRPORT

**DATE:** February 7, 2017  
**FROM:** Gregory B. Haug, Airport Director  
**ITEM:** Agenda Item for February 14, 2017



### REQUEST

Consider the recommendations of the selection committee for airport marketing and advertising services and approve the contract.

### BACKGROUND INFORMATION

Bismarck Airport has a marketing program for the purpose of creating awareness about the airport. The airport routinely buys ads on TV, radio, social media, and online mediums such as Google, Yahoo and Bing. Airport staff contracts with an advertising firm to purchase and place the ads. Using an advertising firm to purchase and place ads has several advantages most important of which is increasing the value of our buys. Results Unlimited is the firm currently completing the buys for the airport. The contract with Result Unlimited expired on December 31, 2016

In response to the expiration of the contract, Airport staff developed a Request for Proposals (RFP). The RFP was made public on December 9, 2016 with proposals due January 13, 2017. The airport received four proposals to review. A selection committee made up of Amanda Bekkedahl, Matt Remyse and myself met on February 6<sup>th</sup> and 7<sup>th</sup> to review the proposals. Based on the review of the proposals the selection committee's recommendation is to enter into an agreement with Results Unlimited.

Airport staff developed a contract and requested comments on the contract as part of the RFP. Airport staff did not receive any comments or request for changes to the contract from the proposals received. The services included in the contract are advertising placement, advertising placement evaluation, and development of creative products. The airport uses advertising statistics in airline and community presentations. The airport from time to time creates new TV or radio commercials and uses the firm to develop and guide the airport through the process of creating a new commercial.

The cost for the advertising placement portion of the contract is 15 % of net for television, radio and Pandora purchases and 20% of net for online purchases of the advertising purchased. The cost for creative develop is negotiated on an as needed based. The cost of this contract is included in the approved airport budget.

### **RECOMMENDED CITY COMMISSION ACTION**

1. Approve recommendation of selection committee and the contract between the City of Bismarck and Results Unlimited for Marketing and Advertising Services.

### **STAFF CONTACT INFORMATION**

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

Enclosures:

1. Proposed contract between City of Bismarck and Results Unlimited
2. RFP Selection and Ranking Sheet

Advertising/Marketing Services Agreement

February 14, 2017 through December 31, 2019

By and between

Bismarck Airport

And

Results Unlimited

## **Advertising /Marketing Services Agreement**

This Advertising/Marketing Agreement made and entered into by and between the City of Bismarck, a municipal corporation, acting through its Board of City Commissioners, hereinafter, the "City" and Results Unlimited LLC a corporation authorized to do business in the state of North Dakota, having its principal office at 1324 20<sup>th</sup> Ave SW Minot, ND 58701, hereinafter, the Contractor.

### **RECITALS**

Whereas, the City is the owner and operator of the Bismarck Municipal Airport located in Bismarck, North Dakota hereinafter "Airport",

Whereas, the Airport desires to contract for the professional management of Advertising and Marketing Services and issued a request for proposals dated December 09, 2016 for that purpose,

Whereas, the Contractor submitted a proposal to the City dated January 13, 2017 in response to the Airport's Request for Proposal,

Whereas, the City and Contractor have agreed upon the terms and conditions for the professional management of the Marketing and Advertising services pursuant to the Airport's proposal,

Whereas, the Contractor has the special background, training, and experience to provide marketing and advertising services required by Airport,

Now, therefore, in consideration of the terms, condition and covenants hereinafter set forth, the parties agree as follows:

**Section 1. Contact Information**

City of Bismarck

Bismarck Airport  
P.O. Box 991  
Bismarck, ND 58502  
701-355-1808

Contact Information  
Greg Haug, Airport Director  
[ghaug@bismarcknd.gov](mailto:ghaug@bismarcknd.gov)  
Phone: 701-355-1808  
Fax: 701-221-6886

Matthew Remyse  
Marketing and Operations Manager  
[mremynse@bismarcknd.gov](mailto:mremynse@bismarcknd.gov)  
Phone: 701-355-1808  
Cell: 701-220-9018  
Fax: 701-221-6886

Contractor

Results Unlimited  
1324 20<sup>th</sup> Ave SW  
Minot ND 58701

Contact Information  
Tara Freed Ferkinhoff,  
[Tara.f@resultsunlimited.com](mailto:Tara.f@resultsunlimited.com)  
Phone: 701-281-3414

4660 Amber Valley Parkway  
Fargo, ND 58104



## **Section 2 Scope of Service**

1. Advertising Placement/Management
  - a. Based on the Airport's marketing goals, contractor shall develop and submit for approval a strategy for the placement of radio, TV, and Online advertisements. The contractor shall also suggest placement opportunities in addition to radio, TV and online. Contractor shall manage keywords for online advertising.
2. Advertising Placement Evaluation and Statistics
  - a. Contractor must be able to collect, tabulate, summarize, analyze and report the effectiveness of placed advertising. Contractor shall develop online advertising summary reports that will include but not be limited to, impressions, click through rates, cost per click, and/or total spend. The reports will be used to determine benchmarks for evaluation, or conclusions to provide recommendations on future placement. In addition, contractor will produce evaluation reports and statistics that will be used by Airport for community and airline presentations.
3. Develop Creative Products
  - a. The contractor will translate creative concepts to produce print and electronic materials, allowing the Airport adequate time for review and approval. The contractor must submit written production estimates to the Airport Director for approval prior to production.
  - b. The print products will be camera-ready in tangible or electronic form. The electronic products will consist of finished products for airing on radio and TV, to the specifications required for placement. Services may include studio production, editing, graphics, background music and narration. Contractor will provide all necessary talent. The Airport reserves the right to approve all talent used.
  - c. Services may include creative, scripting and production services for video, Microsoft PowerPoint Presentation, Web Pages, CD-ROM, computer presentations and similar products.

## **Section 3. Commissions / Compensation**

1. Contractor shall apply a percentage commission to all advertising placed by the contractor on behalf of the airport. The commission percentage for each calendar year is:

2017 - 15% television, radio, & Pandora. 20% Online

2018 - 15% television, radio, & Pandora. 20% Online

2019 15% television, radio, & Pandora. 20% Online

2. No other fees or commission shall be collected from the airport for the execution of this agreement except for cost related to Section 2.3.
3. Costs associated with Section 2.3 will be negotiated on an as needed basis.

#### **Section 4 Ownership of Material**

1. Airport shall retain the ownership of all material produced from Section 2.3, including "B-roll" footage.

#### **Section 5 Term**

1. The agreement shall be from February 14, 2017 through December 31, 2019.
2. Upon mutual consent by the Airport and Contractor the term of this agreement may be extended for two additional one year terms through December 31, 2021
3. Airport or Consultant may terminate this agreement at any time for any reason by providing the other party with at least sixty days written notice.

#### **Section 6 Other Covenants**

1. The parties shall indemnify and hold each other harmless from any claims including attorney's fees resulting from negligent acts and omissions under the performance of this agreement.
2. Obtain, at its sole expense, all licenses and permits necessary for its operations under the Marketing/Advertising Agreement. All operations shall be in strict conformity with all applicable Federal, State and Municipal laws, rules and regulations.
3. Contractor shall control the conduct and demeanor of its agents and employees and, upon objection from the City concerning the misconduct or demeanor of any such person, the Contractor shall immediately take all lawful steps to remove the cause of the objection.
4. Contractor shall abide by, and be subject to, Airport rules and regulations which are now in effect, or may from time to time be promulgated by the City concerning management, operation and use of the Airport.

#### **Section 7 Non-Compete**

1. Contractor shall not accept as an advertising client any off-airport party which can be construed as a competitor to an on-Airport concessionaire, e.g. an off-airport rental car operator.
2. Contractor shall not accept as an advertising client any competing airports that can be construed as a competitor to Bismarck Airport.

#### **Section 8 Federal Provisions (Attachment A)**

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

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

**Section 9 Signatures**

---

Michael C. Seminary, President  
Board of City Commissioner

---

Colleen Anderson, Co-Owner

---

**Date**

---

**Date**

## Attachment A Civil Rights Provisions

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

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

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

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

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

- A. The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- B. The period during which the airport sponsor or any transferee retains ownership or possession of the property.

### 2. Civil Rights Act of 1964, Title VI – Contractor Contractual Requirements

#### A. Title VI Solicitation Notice

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

#### B. Title VI Solicitation Notice:

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

3. Title VI Clauses for Compliance with Nondiscrimination Requirements

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

Compliance with Nondiscrimination Requirements

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

- A. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- B. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.

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

4. Title VI List of Pertinent Nondiscrimination Authorities

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

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and

private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

5. Clauses for Deeds Transferring United States Property

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

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

**(HABENDUM CLAUSE)**

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

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

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

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

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

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (*Title of Recipient*) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (*Title of Recipient*) will have the right to enter or re-enter the lands and

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

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

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

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

**Federal Fair Labor Standards Act (Federal Minimum Wage)**

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

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

**Occupational Safety and Health Act of 1970**

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

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

### SCORING BY COMMITTEE MEMBER

| PROPOSER | 1   | 2   | 3   | 4 | 5 | COMMITTEE TOTALS |
|----------|-----|-----|-----|---|---|------------------|
| Results  | 795 | 725 | 785 |   |   |                  |
| Odrey    | 775 | 755 | 775 |   |   |                  |
| kkbold   | 670 | 655 | 680 |   |   |                  |
| 60 sec   | 595 | 625 | 530 |   |   |                  |
|          |     |     |     |   |   |                  |
|          |     |     |     |   |   |                  |

### RANKING OF COMMITTEE MEMBER

| PROPOSER | 1 | 2 | 3 | 4 | 5 | COMMITTEE TOTALS |
|----------|---|---|---|---|---|------------------|
| Results  | 1 | 2 | 1 |   |   | 4                |
| odrey    | 2 | 1 | 2 |   |   | 5                |
| kkbold   | 3 | 3 | 3 |   |   | 9                |
| 60 sec   | 4 | 4 | 4 |   |   | 12               |
|          |   |   |   |   |   |                  |
|          |   |   |   |   |   |                  |