

**CITY OF ATLANTA  
HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT**

**REQUEST FOR PROPOSALS**

**FC-6362**

**COFFEE & BAKERY CONCESSION IN THE RENTAL CAR CENTER**



**LOUIS E. MILLER  
AVIATION GENERAL MANAGER  
DEPARTMENT OF AVIATION**

**ADAM L. SMITH, ESQ., CPPO, CPPB  
CHIEF PROCUREMENT OFFICER  
DEPARTMENT OF PROCUREMENT**

## Directions to Technical Support Campus

1255 South Loop Road, College Park, Georgia 30337  
404-530-5500 (main)

### From Downtown Atlanta:

- Take I-75/I-85 South
- Continue on I-75 at the I-75/I-85 Split
- Exit 238B – I-285 West
- Stay in right lane and follow signs for Loop Road
- Bypassing exit for I-285 West, continue on Loop Road through traffic light
- The Tech Campus is the second building on the left (grey stone w/ blue awning)

### From East Atlanta:

- Take I-285 South
- Get off I-285 at the I-75 exit.
- Follow signs to I-285 West/Clark Howell Hwy/ Loop Rd.
- Exit at Loop Rd.
- The Tech Campus is the second building on the left (grey stone w/ blue awning)

### From South of Atlanta: (I-75)

- Take I-75 North
- Exit 238B - I-285 West
- Keep to the right and exit at Clark Howell Hwy / Loop Rd
- Follow signs for Loop Road, go through traffic light
- The Tech Campus is the second building on the left (grey stone w/ blue awning)

### From Southwest of Atlanta: (I-85)

- I-85 North
- Exit 68 - I-285 Bypass, follow to I-285 East
- Exit 59 – Loop Road / Clark Howell Hwy /Airport Cargo
- Follow signs for Loop Road
- Bypass exit for I-285 West, staying in two right lanes to Loop Road
- Continue through traffic light
- The Tech Campus is the second building on the left (grey stone w/ blue awning)

### From West of Atlanta:

- From I-20, take I-285 South
- Exit 59 – Loop Road / Clark Howell Hwy /Airport Cargo
- Follow signs for Loop Road
- Bypass exit for I-285 West, staying in two right lanes to Loop Road
- Continue through traffic light
- The Tech Campus is the second building on the left (grey stone w/ blue awning)

### From the Airport:

- Take Airport Blvd toward I-85 North, stay in the right lane
- Exit Right onto North Inner Loop Rd.
- Continue on N Inner Loop Rd, crossing over Aviation Blvd, and road then becomes South Inner Loop Road.
- Stay on S Inner Loop Rd until you see the "Road Closed" signs.
- The Tech Campus is the second building on the left (grey stone w/ blue awning)



## CITY OF ATLANTA

SUITE 1900

55 TRINITY AVENUE, SW

ATLANTA, GA 30303

(404) 330-6204 Fax: (404) 658-7705

Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

**Kasim Reed**  
Mayor

**DEPARTMENT OF PROCUREMENT**  
Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP  
Chief Procurement Officer  
[asmith@atlantaga.gov](mailto:asmith@atlantaga.gov)

November 12, 2013

### ATTENTION INTERESTED PROPONENT:

Your firm is hereby invited to submit to the City of Atlanta (the "City"), Department of Procurement (the "DOP"), a proposal for Project Number: **FC: 6362, Coffee & Bakery Concession in the Rental Car Center** at Hartsfield-Jackson Atlanta International Airport. This solicitation will require the successful Proponent to design, construct, maintain and manage one (1) concession serving coffee and baked items located in the Consolidated Rental Car Center at Hartsfield-Jackson Atlanta International Airport ("Airport").

A Pre-Proposal Conference will be held on **December 11, 2013 at 10:00 A.M.**, at the **Airport Technical Support Campus, 1255 South Loop Road, College Park, Georgia 30337**. The purpose of the Pre-Proposal Conference is to provide Proponents with detailed information regarding the Procurement process and to address questions and concerns. There will be representatives from the Department of Aviation, Risk Management and the Office of Contract Compliance available at the conference to discuss this project and to answer any questions. Attendance to the Pre-Proposal Conference is strongly encouraged. An optional site tour will be held immediately following the Pre-Proposal Conference.

The last date to submit questions will be **December 18, 2013, at 5:00 P.M.** Questions may be sent to **Kiondria Walker, Contracting Officer**, via email at [kmwalker@atlantaga.gov](mailto:kmwalker@atlantaga.gov), or facsimile at 404-658-7705. Questions will be responded to in the form of an addendum.

Your response to this Request for Proposal ("RFP") must be received by designated staff of the Department of Procurement at 55 Trinity Avenue, S.W., City Hall, Suite 1900, Atlanta, GA 30303, no later than 2:00 P.M., on **January 22, 2014**. Any proposals received after this time will not be considered and will be rejected and returned.

Proposals will be publicly opened and read at 2:00 P.M. on the respective due date in Suite 1900, 1<sup>st</sup> Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, GA 30303.

**Request for Proposal**

**Project Number: FC: 6362, Coffee & Bakery Concession at Hartsfield-Jackson  
Atlanta International Airport**

November 12, 2013

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If you have any questions regarding this project, please contact **Kiondria Walker, Contracting Officer**, at 404-330-6654, or by email at [kmwalker@atlantaga.gov](mailto:kmwalker@atlantaga.gov). Any questions regarding the procedures for purchasing a copy of the document or obtaining a copy of the plan holder's list should be directed to Jessica Boston, Administrative Assistant Senior, at 404-330-6903, or by e-mail at [jaboston@atlantaga.gov](mailto:jaboston@atlantaga.gov).

The City reserves the right to cancel any and all solicitations and to accept or reject, in whole or in part, any and all proposals in the best interest of the City.

Thank you for your interest in doing business with the City.

Sincerely,

A handwritten signature in black ink that reads "Adam L. Smith". The signature is written in a cursive style with a large initial "A".

Adam L. Smith

ALS:kaw

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**Part 1**  
**Information and Instructions to Proponents**

**FC-6362 COFFEE & BAKERY CONCESSION (RCC)**

This request for proposal ("RFP") is being solicited by the City of Atlanta, a Georgia municipal corporation ("City") on behalf of its Department of Aviation ("DOA") from qualified proponents ("Proponents") and seeks to procure the Services (as hereinafter defined):

**1. Services Being Procured:** DOA seeks to procure the following services ("Service(s)"):

Design, construct and subsequently operate, maintain and manage one (1) food and beverage location serving, among other things, coffee and baked items and a limited number of retail items as listed in **Exhibit A, Scope of Services**, located in the Rental Car Center ("RCC") of Hartsfield-Jackson Atlanta International Airport ("Airport") on a non-exclusive basis for an initial term of seven (7) years with a single option to renew the term for an additional three (3) years at the City's sole discretion, unless earlier cancelled or terminated.

A detailed description of the Services is set forth in **Exhibit A** attached to the Concessions Lease Agreement ("**Agreement**") attached hereto at **Part 5** of this RFP and incorporated herein by this reference.

**2. General Information:** The Airport is owned by the City and is operated by DOA. It is located approximately ten (10) miles from downtown Atlanta on 4,750 acres of real property. In 2011, concessions and car rental sales revenues exceeded \$756 million dollars. Historical Enplanement and Rental Car Transaction Days Data are provided in **Tables 1 and 2** below.

<b>HISTORICAL ENPLANEMENT DATA</b>			
<b>Year</b>	<b>Domestic Enplanements</b>	<b>International Enplanements</b>	<b>Total</b>
2008	40,512,670	4,577,644	45,090,314
2009	40,717,462	4,389,597	45,107,059
2010	41,295,534	4,520,863	45,816,397
2011	41,431,848	4,900,947	46,332,795
2012	42,804,201	4,901,837	47,706,038

Table 2	
HISTORICAL RENTAL CAR TRANSACTION DAYS DATA	
Year	Total
2009	5,097,963
2010	5,102,235
2011	5,898,626
2012	6,299,149

3. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City's Code of Ordinances ("**Code**"), including, but not limited to, Section 2-1189 thereof. By submitting a proposal concerning this procurement, Proponent is representing that it is familiar with all laws applicable to this procurement, including, but not limited to, the Code and City Charter, each of which are incorporated into this RFP by this reference.
4. **Minimum Qualifications:** To be eligible to participate in this procurement, Proponent must meet the following minimum qualifications:
- 4.1 Submission of a complete a proposal package completed in full in response to this RFP;
  - 4.2 Provide evidence that it has at least three (3) years of experience, within the last seven (7) years (i.e., between January 2006 and 2013), in the operation and management of one or more food and beverage locations in a U.S. airport, transportation center (e.g., bus station, train station, subway station, etc.), mall or public street vending locations;
  - 4.3 Provide evidence that it has cumulatively generated a minimum of One Hundred Thousand and 00/100 U.S. Dollars (\$100,000.00) in annual gross revenue from its food service operations set forth in Section 4.2 above, for least three (3) of the last seven (7) consecutive years;
  - 4.4 Provide evidence that Proponent is duly authorized to conduct business within the State of Georgia; and
  - 4.5 If the Proponent is a partnership, joint venture or newly formed entity (e.g., limited liability company or corporation), the minimum requirements set forth in this Section 4 (and throughout the RFP) must be satisfied by the entity or individual(s) that owns and controls a majority equity interest (i.e., at least 51%) of the partnership, joint venture or newly formed entity; and

5. **No Offer by City; Firm Offer by Proponent:** This RFP does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This RFP is only an invitation for offers from interested Proponents and no offer shall bind City. However, Proponent agrees that its submission of a proposal is a firm offer and may not be withdrawn except under the rules specified in Code and other applicable law.
6. **Proposal Deadline:** Your response to this RFP must be received by the City's Department of Procurement located at 55 Trinity Avenue, S.W., City Hall, Suite 1900, Atlanta, Georgia 30303-0307 no later than 2:00 p.m. [EST] on or before January 22, 2014. Any Proposal received after this time will not be considered and will be rejected and returned.
7. **Pre-Proposal Conference:** Attendance at the pre-proposal conference is not mandatory; however, is recommended that each Proponent attend the pre-proposal Conference which is scheduled for 10: 00 a.m. [EST] on December 11, 2013 and will be held at the Airport's Technical Support Campus located at 1255 South Loop Road, College Park, Georgia. Each Proponent is solely responsible for being fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services. An optional site tour is scheduled to occur immediately following the Pre-Proposal Conference. Any failure to fully investigate the subject matter of this RFP and any site where the Services will be performed shall not relieve any Proponent from the responsibility of properly evaluating the difficulty or cost of successfully performing the Services.
8. **Proposal Security:**
  - 8.1 Each Proponent is required to furnish security for its proposal in the amount of five percent (5%) of the Proponent's proposed MAG offered for the first year of the Agreement ("**Proposal Security**"). At the option of the Proponent, the Proposal Security may be delivered to the City in the form of either (a) cash, (b) cashier's or certified check made payable to the City of Atlanta or (c) a Proposal Bond in the form attached to this RFP as **Form 6** from a surety that meets the minimum requirements set forth in **Exhibit D** attached to the Agreement.
  - 8.2 The Proposal Security will be retained by the City until all documents necessary to effectuate such Agreement have been executed and/or provided by the successful Proponent to the City. Each Proponent acknowledges and agrees to submit additional documentation (e.g., insurance, bonds, etc.) if it is awarded the Agreement pursuant to any notice provided by the City or otherwise required by the terms of this RFP or the Agreement. If, within ten (10) days of receiving notice from the City, the successful Proponent fails to comply with the

City's notice to submit the additional requested documentation, the City may retain the Proposal Security as liquidated damages and not as a penalty.

8.3 The Proposal Security provided by the non-responsive or unsuccessful Proponents shall be returned to such Proponent(s) within ninety (90) days after the date the Agreement is awarded to the successful Proponent.

9. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, **Kiondria Walker, Contracting Officer** and sent by (a) U.S. Postal Service Express Mail Service addressed to the Department of Procurement, 55 Trinity Avenue, S.W., City Hall, Suite 1900, Atlanta, Georgia 30303-0307, (b) fax to (404) 658-7705 or (c) electronic mail addressed to **kmwalker@atlantaga.gov**, and actually received by the City on or before **5:00 p.m. [EST] on December 18, 2013**. **The City will not consider any questions received after 5:00 p.m. [EST] on December 18, 2013**. Any response made by the City will be provided in writing to all Proponents by addendum. No Proponent may rely on any verbal response to any question submitted concerning this RFP. All Proponents and representatives of any Proponent are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications by any Proponent concerning this RFP must be made to the City's contact person referenced above, or any other City representative designated by the Chief Procurement Officer in writing.
10. **Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion.
11. **Georgia Open Records Act:** Information provided to the City is subject to disclosure under the Georgia Open Records Act ("**GORA**"). Pursuant to O.C.G.A. § 50-18-72(a)(34), "[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 et seq.]."
12. **Applicable OCC Programs:** The City's Office of Contract Compliance ("**OCC**") Programs applicable to this procurement are set forth in **Appendix A** of the Agreement. By submitting a proposal in response to this RFP, each Proponent agrees to comply with such applicable OCC Programs.
13. **Insurance and/or Bonding Requirements:** The insurance and/or bonding requirements for any contract that may be awarded pursuant to this RFP are set forth in **Exhibit D** of the Agreement. By submitting a proposal in response to this RFP, each Proponent acknowledges and agrees that it will have to comply with the requirements set forth in **Exhibit D** of the Agreement.

- 14. Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proponent's proposal. The City will review, among other things, the information included in **Form 4** attached hereto and any additional information required on that form to be included in a Proposal.
- 15. Examination of Proposal Documents:**
- 15.1. Each Proponent is responsible for examining with appropriate care the complete RFP, all associated proposal documents and addenda, and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Services. Failure to do so will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Services in its Proposal.
- 15.2. Each Proponent shall promptly notify City in writing on or before 5:00 p.m. [EST] on December 18, 2013, should the Proponent find discrepancies, errors, ambiguities or omissions in the RFP documents, if any language in such document appears unclear or ambiguous, or should any other question arise relative to the RFP.
- 15.3. City may, by addendum, modify any provision or part of the RFP at any time prior to the Proposal due date and time. The Proponent shall not rely on oral clarifications, representations or instructions to the RFP, unless they are confirmed in writing by City in an addendum.
- 15.4. Each Proponent must acknowledge and confirm receipt of all addenda to this RFP by executing **Form 7** and submitting **Form 7** with Proponent's proposal.
- 16. Rejection of Proposals; Cancellation of Solicitation; Waiver of Technicalities:** The City reserves the right to (a) reject any proposal or all proposals, (b) waive any technical defect in any proposal and/or (c) cancel this RFP at any time in accordance with the Code.
- 17. Award of Agreement; Execution:** If the City awards an agreement pursuant to this Procurement, the City will prepare and forward to the successful Proponent an Agreement for execution substantially in the form included in **Part 5** of this RFP. By submitting a proposal in response to this procurement, each Proponent acknowledges that it will be bound by the terms of the Agreement in the event a contract is awarded to it.

18. **Offset of Certain Taxes:** The City is aware that Clayton County, Georgia, has begun assessing certain ad valorem taxes against tenants' possessory interests in Airport leaseholds. It is the City's intent, to the extent Clayton County is successful in collecting such taxes, to permit the successful proponent to pass this tax liability on to its customers directly in a manner to be determined by the City at a later time. In responding to this RFP, Proponent should assume that, if successful, it will not be responsible for absorbing ad valorem taxes associated with its possessory interest in its leaseholds at the Airport and should prepare all projections accordingly.
  
19. **Illegal Immigration Reform and Enforcement Act:** This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("**Act**"). Pursuant to the Act, the Proponent must provide with its proposal proof of its registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. A completed Contractor Affidavit, set forth in **Form 1**, must be submitted at the time of submission, at the time the proposal is submitted to the City. **Under the laws of the State of Georgia, the City may not consider any proposal that does not include the completed forms required under the Act.** It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with the City are responsible for independently apprising themselves of and complying with the requirements of the Act and assessing its effect on City procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to <https://e-verify.uscis.gov/enroll>.
  
20. **Electronic Proposal Documents.** This RFP is being made available to all Proponents by electronic means. By responding to this RFP, Proponent acknowledges and accepts full responsibility to ensure that it is responding to the correct form of RFP, including any addenda issued by the City's Department of Procurement. Proponent acknowledges and agrees that in the event of a conflict between the RFP in the Proponent's possession and the version maintained by the Department of Procurement, the version maintained by the City's Department of Procurement shall govern. The RFP document is available at [www.atlantaga.gov](http://www.atlantaga.gov).

## **PART 2**

### **Contents of Proposals/Required Submittals**

1. **General Contents of Proposals:** A Proponent must submit a complete proposal in response to this RFP in the format specified in this RFP. A proposal must contain the following two (2) separate documents:
  - 1.1 An Informational Section; and
  - 1.2 A Financial Offer Section (see **Exhibit A.1** attached to this RFP). All Proponents are advised that the Financial Offer Section will be attached to and/or incorporated in the Agreement.
2. **Informational Section of the Proposal:** Proponent must include within the Informational Section each of the following:
  - 2.1 **Volume I:** The information drafted and submitted by Proponent in response to this RFP, which must include each of the following parts:
    - 2.1.1 **Table of Contents:** The proposal must contain a detailed table of contents listing sections and subsections that correspond to the requirements of this RFP. The table of contents should also list all tables, appendices, figures, etc. contained in the Proposal.
    - 2.1.2 **Executive Summary:** The purpose of the executive summary is to provide an overview of the Proponent's qualifications to accomplish the Services. At a minimum, the executive summary must contain the following information:
      - (a) A cover letter that includes the Proponent's name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. The cover letter should also include the name, title, address, e-mail address, telephone number and fax number of the person signing the letter and the name, title, address, e-mail address, telephone number and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning the RFP, if that person is different from the person executing the letter. The cover letter should also include a brief history of the Proponent and statement of the Proponent's approach to providing the Services solicited by this RFP;

- (b) Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. Describe the overall size of Proponent, and specify what is unique about Proponent. Provide the domicile where each entity comprising the Proponent it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity and a listing of major satellite offices;
- (c) A description of the Proponent's plan for complying with the City's ACDBE goals. This sub-section should include detailed information regarding the sub-contractors the Proponent intends to use and should indicate the role and responsibilities these firms will be assigned. Each Proponent must provide a letter from each sub-contractor indicating that the firm concurs with the role and responsibility Proponent has described; and
- (d) A declarative statement that states that whether or not Proponent or any member of the Proponent's team identified in the response to Section 2.1.16 below, has an open dispute with the City or is involved in any litigation associated with work in progress or completed in both the private and public sector during the past five (5) years.

### 2.1.3 Concept

- (a) **Merchandising and Concept Plan:** This criterion includes, but is not limited to, factors such as variety of concepts; variety of service types; presentation of Atlanta, Georgia or Southeastern regional concepts, themes and products; general price levels; innovation, breadth and depth of product offerings; extent of Prominent and Recognizable branding; and compatibility with the menu/ merchandising plan (where applicable).
- (b) **Desired Menu/Concept Requirements:** Menu should include branded coffee and espresso drinks, tea, and limited menu of baked goods (suitable for breakfast, such as muffins and bagels) and other takeaway snack items (such as prepared sandwiches, salads, and desserts). Food should be available in convenient "to go" packaging. Restaurant should also offer juices and water. Menu offerings shall be of high quality and offer good value to the customers. There must be portion-appropriate menu items for children. A newspaper selection consisting of at least two (2) local, six (6) national/out of town, and four (4)

international/foreign newspaper titles of general circulation must be carried at all times. At least 20 varieties of candy and snack foods as packaged for normal retail sale shall be offered.

Cosmetics, hosiery, and variety of health & beauty aid products in travel sizes. Disposable cameras, film, photographic accessories, and batteries. Tobacco products and related accessories. Travel-sized non-prescription medication and pain relievers. High quality regional gifts, souvenirs, and travel-related products. Business traveler supplies such as paper, pens, stationery, postage stamps sold at face value, and planners/calendars.

- (c) **Facility Design:** This criterion considers the physical design and construction of the proposed food and beverage locations and includes, but is not limited to, factors such as innovation; creativity of design concepts; quality of materials; floor plans, presentation of Atlanta, Georgia or Southeastern regional themes; circulation and queuing; graphics and signage, and visual interest.
- (d) **Customer Service and Operations:** This criterion considers, but is not limited to staffing levels; corporate management support; inventory logistics; employee training; customer service programs; and facility maintenance schedules.
- (e) **Construction Plan:** Proponent must submit a construction plan that includes, at a minimum, each of the following:
  - (i) A brief narrative description of the proposed capital improvements to be made to each individual and dominant design theme;
  - (ii) An identification of Proponent's architectural and engineering design team, specifying prior experience in the design of commercial Concessions used in malls, airports, public city streets. Proponent should include the resumes and project experience of the principals of said architectural and engineering design team; and
  - (iii) A construction schedule, identifying at a minimum, the project start and completion dates.

2.1.4 **Business Plan:** Proponent must submit a business plan with its proposal, which will be judged on the completeness and overall quality of its

approach in the operation and management of Service. Proponent must provide evidence in its business plan that demonstrates the Proponent's approach in the management of this food, beverage and/or retail location. The Proponent must demonstrate the following:

- (a) Proponent's range of resources and technical expertise that will be used during the term of the proposed agreement;
- (b) Proponent's revenue and rent projections;
- (c) Proponent's ability to generate profit margins as well offer the City competitive categories of percentage rent;
- (d) Proponent's ability to manage the requisite areas specified and to meet the deadlines set forth in its transition plan and construction schedule;
- (e) Proponent should show pro forma line items which will be reviewed carefully for reasonableness and financial impact. Such items are expected to reflect actual experience, where applicable; and;
- (f) Such items are expected to reflect actual experience and results. Proponent is also expected to implement a profitable business with positive cash flow over the life of the Concessions Agreement. Pro forma Profit & Loss documents should be provided for the 7 year term.

2.1.5 **Overall Project Experience and Performance on Previous Similar Projects:** This criterion measures the competence, qualifications and experience of the key professionals and technical staff. The evaluation of key personnel will be based upon their experience to provide the required food and beverage services for projects similar in size and scope, their education and professional credentials, reputation in the industry, and references provided. The quality and timeliness of the Proponent's past performance on previous contracts of similar size and scope will be evaluated.

- (a) Proponents must provide a description of the Proponent's experience and qualifications in the construction, operation and management of a coffee and bakery concession, store or retail kiosk similar to the type generally described in the Scope of Services.

- (b) Provide three (3) examples of how Proponent (or identified team members) corrected a problem (whether it is personnel, client, or project-related) that was encountered during execution of a food, beverage and/or retail project.
- (c) Key Personnel/Resumes: Identify and provide resumes for key personnel, including, all of Proponent's executive managerial positions. Provide a list of all other positions within Proponent's organization and the duties of each position. Resumes should be organized as follows:
  - (i) Name and Title;
  - (ii) Professional Background;
  - (iii) Current and Past Relevant Employment;
  - (iv) Education;
  - (v) Certifications; and
  - (vi) List of (3) projects that involve the sale of food and beverages, including:
    - (A) Client Name;
    - (B) Project description;
    - (C) Role of the individual;
    - (D) Project completion date; and
    - (E) Client list/Reference contact
  - (vii) the original contract schedule to start and complete the project
  - (viii) the actual start and completion dates of the project;
  - (ix) whether the individual was full-time on the project and the Client's perceived key contribution that individual made in completing the Client's project either within the Client's original planned total cost or original schedule duration or both; and
  - (x) the quality of the facility's operation since the Client's acceptance at turnover.
- (d) By submitting a proposal in response to this RFP, Proponent acknowledges and agrees that it committing to use the individuals identified as Key Personnel for this RFP. In the event there is need to replace Key Personnel after Proponent submits its proposal or during the term of the Agreement, changes may only be made to the list of Key Personnel with the prior written consent of the City.

- 2.1.6 **Client List:** Proponents must provide a list of four (4) of the Proponent's clients that Proponent is providing services similar to the Service being procured pursuant to this RFP. A separate **Form 8** is required for each reference and each of which is to be included in the proposal.
- 2.1.7 **Financial Statement and Capability:** This criterion is based on the strength of Proponents' financial statements and other required financial information. **Proponents who fail to submit all required financial information shall be deemed nonresponsive.** The review will focus primarily on the Proponent's Statement of Income, Balance Sheet, and Cash Flow Statements. Ratio Analysis will be included while determining the Proponent's financial strength as well as a review of the sources and uses of funds.
- 2.1.8 **OCC Programs/Airport Concessions Disadvantaged Business Enterprise:** The City's Office of Contract Compliance ("OCC") programs applicable to this procurement are set forth in **Appendix A** of the Agreement. By submitting a proposal in response to this procurement, each Proponent agrees to comply with all applicable OCC programs. **Pursuant to the Code, a Proponent will be deemed non-responsive to this RFP if it fails to complete all of the submittals required by Appendix A.**
- 2.2 **Volume II:** Must include the required amount of original and copies of fully completed (and as appropriate executed and sealed) forms required by this RFP (or otherwise required to be created by Proponent), which must be set forth in and include each of the following parts:
- 2.2.1 **Form 1: Illegal Immigration Reform and Enforcement Act Affidavits.**
- 2.2.3 **Form 3: Disclosure Form and Questionnaire.**
- 2.2.4 **Form 4: Proponent Financial Disclosures.**
- 2.2.5 **Form 5: Acknowledgement of Insurance and Bonding Requirements.**
- 2.2.6 **Form 6: Certification of Insurance and/or Bonding Ability.**
- 2.2.7 **Form 7: Acknowledgement of Addenda.**
- 2.2.8 **Form 8: Client List.**
- 2.2.9 **Appendix A: Office of Contract Compliance Submittals.**
3. **Financial Offer Section of the Proposal:** Proponent must include a Financial Offer Section in its proposal. Each Proponent must submit a Financial Offer using the **Financial Offer Form in Exhibit A.1**. The Financial Offer shall serve as final Minimum Annual Guarantee and Percentage Rent with the City. **Proponent must submit one (1) signed and sealed original stamped "Original" and nine (9) copies in a separate sealed envelope as required by this RFP:**

- 3.1 The Proponent must offer a minimum rent to be paid to the City for the first year of the Agreement (“Minimum Annual Guarantee” or “MAG”) of at least \$25,000 (“First Year MAG”). If a Proponent submits a lower First Year MAG than the First Year MAG established above, the Proponent’s proposal shall be deemed non-responsive and rejected. In each subsequent year during the Term of the Agreement (including any years during a renewal term) the MAG for the applicable year will be adjusted to equal the higher of (a) the previous year’s MAG or (b) 85% of the total rent owed by Proponent during the previous year.
- 3.2 Listed in the schedule below are categories of items to be sold by the successful Proponent in the Premises (each referred to herein as a “Category” and collectively, as the “Categories”). The Proponent must propose the forecasted revenue for each category. The percentage of Gross Receipts listed by Category in the schedule below is the minimum Percentage Rent the City will accept for each Category of products sold:

Category	Percentage of Gross Receipts
Branded Food & Coffee	14.5%
Non-Branded Food & Coffee	16.5%
Travel Retail/Gifts/souvenirs/ Tobacco products/Candy & Snacks	12.5%
General Retail/Supplies/stationary	10%

**4. Submission of Proposals:**

- 4.1 Proponent’s proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project as “**FC-6362: Coffee & Bakery Concession in the Rental Car Center,**” and the name and address of the Proponent. All proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP**  
 Chief Procurement Officer  
 Department of Procurement  
 55 Trinity Avenue, S.W.  
 City Hall, Suite 1900  
 Atlanta, Georgia 30303-0307  
 RE: PROJECT NUMBER FC-6362

- 4.2 Each Proponent is required to submit one (1) original and nine (9) copies of its Proposal. The original should be clearly marked "Original" and should contain original signature(s). Each proposal must be submitted on 8½" x 11" single-sided paper and text should be typewritten and double-spaced, using 12-point font size and such pages must be inserted in a standard three-hole ring binder. Each proposal must contain an index and separate sections for each of the sections set forth in Section 2 of Part 2 of this RFP.
- 4.3 Each Proponent is required to submit, in a separate, sealed envelope, clearly marked as the "Financial Offer," one (1) stamped "Original" and nine (9) copies of Proponent's Financial Offer with its proposal.
- 4.4 Proposals will be publicly opened at **2:00 P.M. [EST] on January 22, 2014**, in the Department of Procurement's Bid Conference Room located at 55 Trinity Avenue, S.W., Suite 1900, City Hall, Atlanta, Georgia 30303-0307.
- 5 **Representation.** By submitting a proposal to the City, Proponent acknowledges and represents that: (a) the accompanying proposal is made by a person or business entity (i.e., firm) that is neither a high cost lender nor a predatory lender, nor is the Proponent an affiliate of a high cost lender or a predatory lender, as defined by Code Section 58-102; (b) it has read all of the RFP documents (including, without limitation, the Service Agreement) and acknowledges that Proponent shall be bound by the terms and conditions stated therein; (c) the signatory to the proposal is the Proponent (or Proponent's duly authorized agent or employee of the Proponent with the authority to bind Proponent hereto); (d) any information or disclosure provided on **Form 3**, are accurate representations up to and including the date Proponent submitted its proposal to the City; (e) except as contemplated by this RFP, the City will not agree to make any substantive revisions to the Agreement; and (f) it will voluntarily notify the City immediately if any information or disclosure provided to the City during any part of this procurement process changes, is no longer accurate or would be misleading in any way.

6. **Submittals:** The following submittals must be completed and submitted with each proposal. This table is included solely for Proponent's convenience and may be used to track the preparation and submittal of certain required information with Proponent's proposal.

ITEM #	REQUIRED PROPOSAL SUBMITTAL CHECK SHEET	CHECK (v)
Form 1	Illegal Immigration Reform and enforcement Forms	
Form 3	Disclosure Form and Questionnaire	
Form 4	Proponent Financial Disclosures	
Form 5	Acknowledgement of Insurance and Bonding Requirements	
Form 6	Certificate of Insurance and/or Bonding Ability	
Form 7	Acknowledgement of Addenda	
Form 8	Client List	
Exhibit A.1	Financial Offer	
Appendix A	City's Office of Contract Compliance Submittals	
	Evidence of authority to transact business in the State of Georgia	

**NOTWITHSTANDING THIS CHECK SHEET, PROPONENTS ARE ADVISED THAT ALL SUBMITTALS REQUIRED BY THIS RFP (WHETHER OR NOT LISTED IN THIS CHECK SHEET) MUST BE COMPLETED IN-FULL AND, IF APPLICABLE, SIGNED SEALED AND NOTARIZED. BY SUBMITTING A PROPOSAL TO THIS RFP, PROPONENT ACKNOWLEDGES AND AGREES THAT THE CITY PROVIDED THIS CHECK SHEET SOLELY FOR PROPONENT'S CONVENIENCE.**

**PART 3**  
**EVALUATION OF PROPOSALS**

An Evaluation Committee will review and evaluate the Proposals in accordance with the Code, the criteria specified on the Evaluation Form and considering the information required to be submitted pursuant to the RFP. All Proposals will be evaluated using the following Evaluation Form:

<b>EVALUATION FORM</b>			
CATEGORIES	CATEGORY SCORE	RELATIVE WEIGHT	TOTAL CATEGORY SCORE
Concept		20	
Business Plan		20	
Overall Project Experience and Performance		20	
Financial Offer		20	
Financial Statement/Capability		5	
OCC Program: Airport Concessions Disadvantaged Business Enterprise Goals		15	
		100%	
<b>TOTAL SCORE</b>			

For purposes of evaluating all of the Proposals received by the City, the City will assess a score between zero (0) and ten (10) for each Category noted above. The Total Category Score is calculated by multiplying the Category Score and the assigned Relative Weight (i.e., Category Score x Relative Weight = Total Category Score). The Total Score is calculated by adding each Total Category Score together. The result of the calculation of the Total Score will be used to determine which Proponent has received the highest Total Score.

**PART 4**

**SUBMITTAL FORMS**

**FORM 1**

**Illegal Immigration Reform and Enforcement Act Forms**

All Bidders must comply with the Illegal Immigration Reform and Enforcement Act of 2011, O.G.G.A § 13-10-90, et seq. ("IIREA"). Bidders must familiarize themselves with IIREA and are solely responsible for ensuring their compliance therewith. Bidders may not rely on these instructions for that purpose. These instructions are offered only as a convenience to assist Bidders in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the Bid prior to the Bid due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Bidder is such that Bidder is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Bidder must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Bidder itself (see Example 1 below). Where the business structure of a Bidder does not require it to obtain an EIN, each entity comprising Bidder must submit a separate Contractor Affidavit (see Example 2 below).

Example 1: ABC, Inc. and XYZ, Inc. form and submit a bid as AirportFood, LLC. AirportFood, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of AirportFood, LLC which includes the Federal Work Authorization User ID Number issued to AirportFood, LLC.

Example 2: ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a Bid under the name AirportFood, JV. If, based on the nature of the JV agreement, Airport Food, JV is not required to obtain an Employer Identification Number from the IRS. The Bid submitted by AirportFood, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be notarized.
6. All Contractor Affidavits must be submitted with the Bidder's response to the RFP.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of bid submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

**Contractor Affidavit**  
**O.C.G.A. § 13-10-91(b)(1)**

By executing this Contractor Affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Contractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta

I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_\_, DAY OF \_\_\_\_\_, 201\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:



**Form 2**  
**(Non-Applicable)**

### Form 3

#### Disclosure Form and Questionnaire

Bidder's disclosures must fully answer all questions posed by the City. Such disclosure must be submitted at the time of the Bid submission and included as a part of the Bid.

- A. For the purposes of this Disclosure Form and Questionnaire:
1. "Bidder" means an individual, entity or partnership submitting a Bid in response to this Solicitation.
    - (a) If the Bidder is an individual, disclosures for that individual must be provided.
    - (b) If the Bidder is an entity (e.g. corporation, limited liability company, etc.) or partnership (e.g. general partnership, limited partnership, joint venture, teaming arrangement, etc.), disclosures for that entity or partnership must be provided, as well as separate disclosure for its constituent members, firms, partners, joint ventures, team members and first-tier subcontractors (collectively referred to herein as "Respondent").
  2. "Affiliate" means any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or is under common control with the Bidder or a member of Bidder.
  3. "Control" means that the controlling entity:
    - (a) Possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or by contract or otherwise; or
    - (b) Has direct or indirect ownership in the aggregate of fifty-one (51%) or more of any class of voting or equity interests in the controlled entity.
- B. The following information must be provided:
1. Please provide the names and business addresses of Bidder and each of Bidder's or officers, directors, affiliates and other employees, agents or representatives for this project. Describe accurately, fully and completely their respective relationships with the Bidder, including their ownership interests and their anticipated role in the management and operations of the Bidder.
  2. Please describe the general development of the Bidder's business during the past ten (10) years, or such shorter period of time that the Bidder or Respondent has been in business.
  3. List any lawsuits, administrative actions or litigation to which Bidder is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct. For each suit, list all parties and indicate whether any party was a bonding company, insurance company, an owner, or otherwise. State the project giving rise to the lawsuit, administrative action or litigation, explain the basis for all claims and state whether a settlement was reached or a judgment was entered, identifying each party against whom a judgment was entered.

4. Provide details if Bidder has been charged with a criminal offense within the last ten (10) years.
5. Describe any citation or notices of violation which Bidder received from any government agency (including, but not limited to, OSHA) in connection with any of Bidder's work during the past ten (10) years.
6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Bidder. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:
  - (a) Whether Bidder, or Affiliate, currently or previously associated with Bidder or Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors.
  - (b) Whether Bidder was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Bidder or Respondent from engaging in any type of business practice; and
  - (c) Whether Bidder was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Bidder or Respondent which directly arose from activities conducted by Bidder which submitted a bid or Bid for the subject project.
7. State whether any employee, agent or representative of Bidder who is or will be directly involved in the project, in the last ten (10) years:
  - (a) Directly or indirectly has or had a business relationship with the City;
  - (b) Directly or indirectly has received revenues from the City; or,
  - (c) Directly or indirectly has received revenues from conducting business on City property or pursuant to any contract with the City.
8. State whether any employee, agent or representative of Bidder who is or will be directly involved in the project has or had within the last ten (10) years a direct or indirect business relationship with any elected or appointed City official or with any City employee.
9. Describe any subcontractors, employees or Affiliates that have a current contractual relationship with the City of Atlanta.
10. Does Bidder's executive management or any board member hold a leadership position with an entity doing business with the City of Atlanta?
11. Will the selection of your firm result in any actual or potential conflicts of interest or appearance of conflicts of interest? If so, please specify any party with whom a conflict exists or might arise, the nature of the conflict and whether your firm would step aside or withdraw in the event of a conflict of interest.
12. Provide details if Bidder is or has been (within the last five (5) years) suspended or debarred from participating in any procurement process with any local, state, or federal government.

13. The Bidder must submit documentary evidence that it is authorized to transact business in Georgia.

C. By signing below, the Bidder acknowledges and agrees to abide by the following provisions:

1. Contractor Shall Certify Satisfaction of all Underlying Obligations. Before final payment is made to Contractor by the City, the Contractor shall certify to the City in writing, in a form satisfactory to the City, that all subcontractors, materialmen suppliers and similar firms or persons involved in the City contract have been paid in full at the time of final payment to the Contractor by the City or will be paid in full utilizing the monies constituting final payment to the Contractor.

2. Certification of Independent Price Determination. Collusion and other anticompetitive practices among offerors are prohibited by city, state and federal laws. All Bidders shall identify a person having authority to sign for the Bidder who shall certify, by executing below, as follows:

"I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or Contractor services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this offeror."

3. Prohibition on Kickbacks or Gratuities. The undersigned acknowledges the following prohibitions on kickbacks and gratuities:

(a) It is unethical for any person to offer, give or agree to give any employee or former employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or Bid therefor.

(b) It is unethical for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or Bid therefor.

(c) It is also unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

4. Equal Employment Opportunity (EEO) Provision. All Bidders are required to comply with sections 2-1200 and 2-1414 of the City of Atlanta Code of Ordinances. During the performance of the agreement, the contractor agrees as follows:

(a) The contractor shall not discriminate against any employee, or applicant for employment, because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include without limitation the following:

Recruited, whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of the EEO clause.

(b) The contractor shall, in all solicitations or advertisements for employees, placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.

(c) The contractor shall send to each labor union or representative of workers with which the contractor may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the contractor's commitments under the equal employment opportunity program of the City of Atlanta and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor shall register all workers in the skilled trades who are below the journeyman level with the U.S. Bureau of Apprenticeship and Training.

(d) The contractor shall furnish all information and reports required by the contract compliance officer pursuant to the Code of Ordinances, and shall permit access to the books, records, and accounts of the contractor during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.

(e) The contractor shall take such action with respect to any subcontractor as the city may direct as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in or is threatened with litigation as a result of such direction by the city, the city will enter into such litigation as is necessary to protect the interest of the city and to effectuate the equal employment opportunity program of the city; and, in the case of contracts receiving federal assistance, the contractor or the city may request the United States to enter into such litigation to protect the interests of the United States.

- (f) The contractor and its subcontractors, if any, shall file compliance reports at reasonable times and intervals with the city in the form and to the extent prescribed by the contract compliance officer. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the contractor and its subcontractors.
  - (g) The contractor shall include the provisions of paragraphs (a) through (h) of this equal employment opportunity clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
  - (h) A finding, as hereinafter provided, that a refusal by the contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
    - (i) Withholding from the contractor in violation all future payments under the involved contract until it is determined that the contractor or subcontractor is in compliance with the provisions of the contract;
    - (ii) Refusal of all future bids for any contract with the City of Atlanta or any of its departments or divisions until such time as the contractor or subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code of Ordinances;
    - (iii) Cancellation of the public contract;
    - (iv) In a case in which there is substantial or material violation of the compliance procedure herein set forth or as may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of contractors, subcontractors or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.
5. Whether you are an individual executing this form or you are an authorized representative of an entity or partnership executing this form, the person signing below must sign or affirm in the presence of a Notary Public. The Notary Public's signature and seal must be provided, together with the date of the notarial act.

(Remainder of page intentionally left blank)

**Declaration**

Under penalty of perjury, I declare that I have examined this Disclosure Form and Questionnaire and all attachments to it, if applicable, and, to the best of my knowledge and belief all statements contained herein and in any attachments, if applicable, are true, correct and complete.

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or Contractor services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Bidder.

*Sign here if you are an individual:*

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2013

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name) this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_(state)  
My commission expires: \_\_\_\_\_

---

*Sign here if you are an authorized representative of a responding entity or partnership:*

Printed Name of Entity or Partnership: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2013

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of \_\_\_\_\_ (entity or partnership name) this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_(state)  
My commission expires: \_\_\_\_\_

## FORM 4

### Proponent/Bidder Financial Disclosures

**Instructions:** It is necessary for the City to evaluate, verify, and understand the Proponent/Bidder's financial capability and stability to undertake and perform the Services contemplated in this Solicitation. To accomplish this task, the Proponent/Bidder must provide accurate and legible financial disclosures to the City as requested below.

A "Proponent/Bidder" is an individual, entity or partnership submitting a proposal or bid in response to a Solicitation.

1. If the Proponent/Bidder is an individual, financial disclosures for that individual must be provided.
2. If the Proponent/Bidder is an entity or partnership, financial disclosures for that entity or partnership must be provided.
3. If the Proponent/Bidder is a newly formed entity or partnership (i.e., formed within the last three years), financial disclosures for that entity or partnership must be provided together with full financial disclosure from the entity's or partnership's owners. Financial Disclosure includes a full response to all questions and requests for documentation listed in this **Form 4**.

For example, if the Proponent/Bidder is a newly formed entity (formed within the last three years) made up of two separate entities (e.g., a majority interest owner and a minority interest owner), then financial disclosure is required from the Proponent/Bidder entity, and financial disclosure is also required from each of the two owners (majority entity owner and minority entity owner) as well.

The Proponent/Bidder (and its owners, if applicable) must submit hard copies of all financial disclosures in response to this **Form 4**.

**Part A - General Information:**

Name of the Proponent/Bidder: \_\_\_\_\_

Name of individual, entity or partnership completing this Form: \_\_\_\_\_

Relationship of individual, entity or partnership completing this Form to the Proponent/Bidder: \_\_\_\_\_

Contact information of individual, entity or partnership completing this Form 4: \_\_\_\_\_

Address \_\_\_\_\_

Phone Number(s) \_\_\_\_\_

Email \_\_\_\_\_

**Part B: Financial Information:**

1. The Proponent/Bidder, and its owners, if applicable, should demonstrate its financial capability and stability by selecting and providing documentation from one of the following three groups of requests (see below). Please circle which group, (a), (b), or (c), is selected and provide the supporting documentation with the proposal/bid.
  - (a) **Financial statements for the three (3) most recent consecutive fiscal years, audited by a Certified Public Accountant ("CPA"), including:**
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Statement of Cash Flows.
  - (b) **Financial statements for the three (3) most recent consecutive fiscal years, either reviewed or compiled by a Certified Public Accountant ("CPA"), including:**
    - (i) Income Statement;
    - (ii) Balance Sheet; and
    - (iii) Satisfactory proof of Proponent's ability to obtain a Performance Bond for the amount described in Exhibit D, if applicable.
  - (c) **Unaudited, self-prepared financial statements for the three (3) most recent consecutive fiscal years, including:**
    - (i) Income Statement;
    - (ii) Balance Sheet;
    - (iii) Satisfactory proof of Proponent/Bidder's ability to obtain a Performance Bond for the amount described in Exhibit D, if applicable;
    - (iv) Two (2) banks or other institutional lenders' references; and
    - (v) Dunn and Bradstreet report for the last two (2) years.

2. Fill in the blanks below to provide a summary of all of the Proponent/Bidder's assets and liabilities for the three (3) most recent years (calculated from the date of the end of the fiscal year).

ALL FIGURES BELOW MUST BE REPRESENTED IN U.S. CURRENCY (\$).

Standard currency of Proponent/Bidder's Financial Statements: \_\_\_\_\_

The exchange rate used: \_\_\_\_\_ = US \$ \_\_\_\_\_

Most recent three (3) years:

	<u>Year: 2010</u> (thousands)	<u>Year: 2011</u> (thousands)	<u>Year: 2012</u> (thousands)
Current Assets	\$.....	\$.....	\$.....
Current Liabilities	\$.....	\$.....	\$.....
Property & Equip.	\$.....	\$.....	\$.....
Working Capital	\$.....	\$.....	\$.....
Sales/ Revenue	\$.....	\$.....	\$.....
Total Assets	\$.....	\$.....	\$.....
Total Liabilities	\$.....	\$.....	\$.....
Interest Charges	\$.....	\$.....	\$.....
Net Income	\$.....	\$.....	\$.....
Net-Worth	\$.....	\$.....	\$.....

3. Do you plan to use or require an open line of credit for the project? Yes or No.

If yes, the Proponent/Bidder must provide the source of the line of credit on bank letterhead for the bank providing the line of credit. The bank contact information must include: contact name, title, address, telephone, fax and e-mail address.

**Declaration**

Under penalty of perjury, I declare that I have examined this Financial Disclosure form and all attachments to it, if applicable, and, to the best of my knowledge and belief, and all statements contained in it and all attachments thereto, if applicable, are true, correct and complete.

Whether you are an individual executing this form or you are an authorized representative of an entity executing this form, the person signing below must sign or affirm in the presence of a Notary Public. The Notary Public's signature and seal must be provided, together with the date of the notarial act.

***Sign here if you are an individual:***

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 2013

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name) this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)  
My commission expires: \_\_\_\_\_

---

***Sign here if you are an authorized representative of a responding entity:***

Printed Name of Entity: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2013

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of \_\_\_\_\_ (entity name) this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)  
My commission expires: \_\_\_\_\_

**FORM 5**

**ACKNOWLEDGMENT OF INSURANCE AND BONDING REQUIREMENTS**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_, ("Proponent"), acknowledge that if selected as the successful Proponent for **FC-6362: Coffee & Bakery Concession in the Rental Car Center**, Proponent shall comply with all insurance and bonding requirements contained in the Concessions Lease Agreement (attached to the RFP), and any other attachments to the RFP which pertain to insurance and/or bonding.

Proponent understands that it is expected to share these requirements with potential sureties and insurance brokers, agents, underwriters, etc. prior to any award of a Concessions Lease Agreement and to take all necessary steps to ensure compliance with the applicable requirements without delay. Proponent understands, acknowledges and agrees that any failure to fully comply with these requirements within ten (10) days of the date Proponent receives a final Concessions Lease Agreement document from the City may result in the forfeiture of the Proposal Security submitted with this proposal and/or the disqualification of Proponent from further consideration for the Concessions Lease Agreement.

By executing this Acknowledgement of Insurance and Bonding Requirements, I represent that the Proponent understands and agrees to comply unconditionally with all requirements related to insurance and bonding. Further, by signing below, I represent that I am authorized to make the representations contained herein on behalf of Proponent.

Date: \_\_\_\_\_, 2013

**Corporate Proponent:**  
[Insert Corporate Name]

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**Corporate Secretary/Assistant  
Secretary (Seal)**

Date: \_\_\_\_\_, 2013

**Non-Corporate Proponent:**  
[Insert Proponent Name]

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**Notary Public (Seal)**  
**My Commission Expires:** \_\_\_\_\_

**FORM 6**  
**Certification of Insurance and/or Bonding Ability**

**Instructions:** Offerors must submit (1) a completed copy of this form executed by their insurance company and (2) a completed copy of this form executed by their surety. Failure to submit completed forms from both entities, as required, will result in the Offeror being deemed non-responsive.

I, \_\_\_\_\_ [insert an individual's name], on behalf of \_\_\_\_\_ [insert insurance/surety full company name], a \_\_\_\_\_ [insert type of entity LLC, LLP, corporation, etc.]("Insurer/Surety"), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia ("City") on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [insert date]:

- (a) Insurer/Surety is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance and/or surety business in the State of Georgia;
- (b) Insurer/Surety has reviewed the Agreement attached to the solicitation for Project Number FC-6362: Coffee & Bakery Concession in the Rental Car Center ("Project") and its Exhibit D;
- (c) Insurer/Surety certifies that if, as of the date written above, \_\_\_\_\_ ("Offeror") was selected as the successful Offeror for the Project, Insurer/Surety would provide insurance and/or bonding to Offeror for this Project in accordance with the terms set forth in Exhibit D; and
- (d) Surety only: The Surety states that Offeror's uncommitted bonding capacity (not taking into account this Project) is approximately \$ \_\_\_\_\_ (U.S.). Surety's statement set forth in this Section (d) does not represent a limitation of the bonding capacity of Offeror or that Offeror will have the bonding capacity noted above at the time of contract execution for this Project.

**PLEASE NOTE:** If this Form 6 is executed by an Attorney-in-Fact, then Insurer/Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 6. If Offeror is unable to provide City with insurance and/or bonds that comply with the terms of Exhibit D within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.

By executing this certification, Insurer/Surety represents that all of the information provided by Insurer/Surety herein is true and correct as of the date set forth above.

**Insurer/Surety:** [insert company name on line provided below]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant Secretary  
(Seal)

**FORM 7**

**ACKNOWLEDGMENT OF ADDENDA**

Each Proponent must sign below and return this form with its proposal to the Department of Procurement, 55 Trinity Avenue, S.W., City Hall, Suite 1900, Atlanta, Georgia 30303, as acknowledgment of receipt of certain Addenda.

This is to acknowledge receipt of the following Addenda for **FC-6362: COFFEE & BAKERY CONCESSION IN THE RENTAL CAR CENTER:**

1. NONE [ ]
2. \_\_\_\_\_;
3. \_\_\_\_\_;
4. \_\_\_\_\_; and
5. \_\_\_\_\_.

Date: \_\_\_\_\_, 2013

Corporate Proponent:  
[Insert Corporate Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Corporate Secretary/Assistant  
Secretary (Seal)

Date: \_\_\_\_\_, 2013

Non-Corporate Proponent:  
[Insert Proponent Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Notary Public (Seal)  
My Commission Expires: \_\_\_\_\_

**Form 8**  
**Proponent Contact Directory<sup>1</sup>**

NAME	POSITION/TITLE	MAILING ADDRESS	PHONE NUMBER	FAX NUMBER	EMAIL ADDRESS

<sup>1</sup> The purpose of the Bidder Contact Directory is to provide the City with a centralized, easily identified source of important contacts and other information regarding each of the business entities constituting a Bidder. This Bidder Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Bidder's team:

1. At least two individuals, one primary the other(s) secondary, authorized to represent the firm for purposes of this ITB; and
2. Bidder Service Provider Key Personnel (as appropriate) listed in the Services Agreement included in this ITB at Part 5.

**PART 5**

**CONCESSIONS LEASE AGREEMENT**

**CONCESSIONS LEASE AGREEMENT**

**FOR**

**COFFEE & BAKERY CONCESSION IN THE RENTAL CAR CENTER**

**AT THE**

**HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT**

**ATLANTA, GEORGIA**



**Landlord: City of Atlanta**

**Concessionaire: \_\_\_\_\_**

**Contract No. FC-6362**

**CONCESSIONS LEASE AGREEMENT**

This Concessions Lease Agreement ("**Agreement**") is entered into and made effective on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_ ("**Commencement Date**"), between the City of Atlanta, a municipal corporation of the State of Georgia ("**City**") and \_\_\_\_\_, a \_\_\_\_\_ ("**Concessionaire**"). In consideration of the mutual premises and obligations set forth herein, and for other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged by Concessionaire and the City, the parties hereto, intending to be legally bound, agree as follows:

**1. PREMISES**

**1.1 Description of Premises.**

**1.1.1** Concessionaire shall be entitled to occupy and use, solely for the purposes specifically set forth herein, that certain space consisting of approximately 862.75 square feet of floor area ("**Premises**") located in the Rental Car Center ("**RCC**") of Hartsfield-Jackson Atlanta International Airport ("**Airport**," and for purposes of this Agreement the term 'Airport' shall be deemed to include the RCC), and as generally depicted on **Exhibit A**, as follows:

<b>Space</b>	<b>Location</b>	<b>Approximate Square Footage</b>
RCC-F1	Level 2, West End, Rental Car Center	862.75
		<b>Total S.F.: 862.75</b>

**1.1.2** No easement for light, air or view is granted, given or implied in this Agreement. Upon completion of the construction contemplated by Section 7 of this Agreement, Concessionaire must submit to City final as-built drawings, which will be incorporated by reference into this Agreement as a supplement to **Exhibit A**, without the need for the parties to amend this Agreement.

**1.2 Relocation, Expansion and Contraction; Reimbursement of Certain Costs.**

**1.2.1 City's Right to Require.** City may require that Concessionaire relocate all or part of the Premises anywhere within the Airport, or expand or contract the size of the Premises. Concessionaire must accomplish any such relocation, expansion or contraction expeditiously upon a timetable approved or directed by the City's Aviation General Manager for the Department of Aviation ("**DOA**").

**1.2.2 Reimbursements.**

**1.2.2.1** In the event the City requires Concessionaire to relocate all or part of the Premises or contract the size of the Premises, City agrees to reimburse Concessionaire for the

reasonable unamortized construction costs for Concessionaire's improvements within such portion of the Premises affected (based on the current book value of furniture, fixtures and improvements using the straight-line method of depreciation), and moving costs incurred due to relocation.

**1.2.2.2** The amount of reimbursed costs allowed by City pursuant to this Section is at the City's sole determination. Proof of unamortized costs must be provided to and verified by the Aviation General Manager prior to reimbursement.

**1.2.2.3** City will amortize the construction and moving costs over the remaining term of the Agreement. This amortization may result in one or more rental credits to be applied to future rental payments. No cash reimbursements or credits for any outstanding indebtedness will be provided by City as reimbursement for allowable construction and/or moving costs.

**1.2.2.4 Affect on Rental Payment Obligations in the Event of Relocation, Contraction or Expansion.** Any such relocation, contraction or expansion required of Concessionaire under this Section may change Concessionaire's obligation to pay rent pursuant to the terms of the Agreement as follows:

**1.2.2.4.1 Relocation.** If the relocated Premises is deemed unsatisfactory by Concessionaire, then Concessionaire will have the right to terminate this Agreement with no additional obligation on the part of either Concessionaire or City; except that City agrees to reimburse Concessionaire for the reasonable unamortized construction costs for Concessionaire improvements within the Premises (based on the current book value of furniture, fixtures and improvements using the straight-line method of depreciation). Concessionaire must exercise its limited right to terminate under this Section by tendering written notice to City no later than thirty (30) days after Concessionaire receives notice from City of the required relocation, date of relocation and the location of the new Premises.

**1.2.2.4.2 Contraction.** If contraction of the Premises is required and the amount of contraction is greater than ten percent (10%) of the gross square footage of the Premises, then the Minimum Annual Guarantee will be decreased in proportion to the amount of the percentage contraction of the gross square footage of the Premises. Contractions of the Premises are deemed cumulative in the aggregate and are to be compared with the area of the Premises as originally let on the Commencement Date.

**1.2.2.4.2.1** For example, assuming the Premises of this Agreement on the Commencement Date is one thousand (1,000) square feet. If, in contract year three (3), the City requires a contraction of the Premises to nine hundred and fifty (950) square feet, the MAG related to the Premises will not be adjusted because the contraction is less than ten percent (10%) of the original square footage. If, in contract year four (4), the City requires a contraction of an additional one hundred (100) square feet, the MAG related to the

Premises will be reduced by fifteen percent (15%) because the resulting Premises will have contracted by fifteen percent (15%), in the aggregate, as compared to the original square footage.

**1.2.2.4.3 Expansion.** If expansion of the Premises is required and the amount of expansion is greater than ten percent (10%) of the gross square footage of the Premises, then the Minimum Annual Guarantee will be increased in proportion to the amount of the percentage expansion of the gross square footage of the Premises. Expansions of the Premises are deemed cumulative in the aggregate and are to be compared with the area of the Premises as originally let on the Commencement Date.

**1.2.2.4.3.1** For example, assuming the Premises of this Agreement on the Effective Date is one thousand (1,000) square feet. If, in contract year three (3), the City requires an expansion of the Premises to one thousand and fifty (1,050) square feet, the MAG related to the Premises will not be adjusted because the expansion is less than 10% of the original square footage. If, in contract year four (4), the City requires an expansion of an additional one hundred (100) square feet, the MAG related to the Premises will be increased by fifteen percent (15%) because the resulting Premises will have expanded by fifteen percent (15%), in the aggregate, as compared to the original square footage.

**1.2.2.4.3.2** For example, assuming the Premises of this Agreement on the Commencement Date is one thousand (1,000) square feet. If, in contract year two (2), the City requires a contraction of the Premises to eight hundred and fifty (850) square feet, the MAG related to the Premises will be reduced by fifteen percent (15%) because the resulting Premises will have contracted by fifteen percent (15%), in the aggregate, as compared to the original square footage. If, in contract year four (4), the City requires an expansion of an additional one hundred fifty (150) square feet, the MAG related to the Premises will be increased by fifteen percent (15%) because the resulting Premises will have expanded by fifteen percent (15%), in the aggregate, as compared to the original square footage. If, in contract year five (5), the City requires an expansion of an additional one hundred (100) square feet, the MAG related to the Premises will be increased by ten percent (10%) because the resulting Premises will have expanded by ten percent (10%), in the aggregate, as compared to the original square footage.

**1.3. RCC or Concourse Closure.** If the RCC or a concourse in which any part of the Premises is located is permanently closed to passenger use, upon such closure this Agreement will terminate as to the portion of the Premises in the RCC or on the specific concourse and City will reimburse Concessionaire for the reasonable unamortized construction costs for Concessionaire's improvements within the Premises (based on the current book value of furniture, fixtures and improvements using the straight-line method of depreciation). Upon such reimbursement to Concessionaire, title to all such furniture, fixtures and improvements will be deemed conveyed to City and Concessionaire may be required to execute such further

documents and instruments to evidence such conveyance. Proof of unamortized costs must be provided to and verified by the Aviation General Manager prior to reimbursement.

**1.4. Support Space and Access.** Throughout the Airport there are certain spaces that may be available to Concessionaire for lease as support space for offices, storage or other similar support uses. Concessionaire may request the use of a portion of such available additional space for purposes relating to the business conducted at the Premises. Such request must state the specific intended use of the space by the Concessionaire. If the Aviation General Manager determines that space is available for the purpose requested, such space may be provided to Concessionaire on a thirty (30) day revocable basis, at the then current rate charged by City for comparable space at the Airport. To memorialize the use of any such additional space, the parties will execute a permit outlining the terms of use. Such space may be unfinished and Concessionaire may be required, as a condition to using such space, to develop and improve the space at its sole cost and without rental credit or abatement according to the terms and conditions contained in the permit.

**1.5. Deliveries.**

**1.5.1 Standard Delivery Policies.** Regular deliveries to the Premises and other spaces at the Airport used by Concessionaire under a permit will be allowed during hours designated by the Aviation General Manager only and will be scheduled to minimize circulation conflicts with aircraft activity. Concessionaire is responsible for arranging for the delivery of all goods required for the operation of the business at the Premises. The Aviation General Manager must approve deliveries and delivery schedules.

**1.5.2 Exceptional Delivery Circumstances.** City acknowledges that certain exceptional circumstances may require variations from the designated hours for regular deliveries. Such deliveries will require the express prior written approval of the Aviation General Manager. Concessionaire is prohibited from using the Automated Guide Way Transit System or any of its moving sidewalks to facilitate or assist with any delivery.

**1.5.3 Approval of Delivery Companies.** Only companies approved by the Aviation General Manager with required training, such as Airport security class and drivers' training, insurance and security clearance will be authorized to make deliveries at the Airport.

**1.5.4 City's Right to Use Third-Party Contractor.**

**1.5.4.1** The City may procure a third-party contractor to provide receiving, handling and/or transfer/delivery services for all or any portion of the concessionaires operating at the Airport in accordance with policies the Aviation General Manger believes at his/her discretion to be in the best interests of the City.

**1.5.4.2** If the City chooses to use a third-party contractor for receiving, handling and/or transfer/delivery services, it may direct the Concessionaire to exclusively utilize the services of such third-party contractor for all receiving, handling and transfer/delivery services required by Concessionaire concerning the business it operates in the Premises. Concessionaire will be required to promptly pay all invoices provided to Concessionaire by such third-party contractor for receiving, handling and/or transfer/delivery services.

**1.5.4.3** Charges paid by Concessionaire for these services will be developed by the selected contractor based upon actual costs and will be subject to annual audit by the Aviation General Manager. It is anticipated that a flat rate will be developed and approved by the Aviation General Manager for these services according to concession category, frequency of deliveries, volume of goods delivered, amount of waste handled, etc. These charges are subject to change. Concessionaire should anticipate a charge of up to fifty dollars (\$50.00) per square foot of the Premises and other spaces at the Airport used by Concessionaire under a permit per year if a third-party contractor is used by the City and Concessionaire is directed to use such services.

## **2. TERM**

**2.1 Commencement Date.** Pursuant to the City of Atlanta Code of Ordinances (“Code”), this Agreement will not become binding upon the City and the City will incur no liability under it until it has been duly executed by the Concessionaire, returned to the City with all required submittals, including insurance and bonding, executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form and delivered to the Concessionaire, which shall be deemed effective on the Commencement Date of this Agreement first set forth above.

**2.2 Term.** The term (“Term”) of this Agreement shall begin on the Commencement Date and end **seven (7) years** thereafter (“**Expiration Date**”), unless earlier terminated or cancelled pursuant to the terms of this Agreement. All rights and obligations of the parties under this Agreement shall commence on the Commencement Date of the Agreement, except for, to the extent that City is unable to turn over possession of any part of the Premises to Concessionaire on the Commencement Date, then (a) the City’s obligation to deliver such portion of the Premises to Concessionaire and (2) Concessionaire’s obligation to improve such portion of the Premises shall commence on the date the City makes such portion(s) of the Premises available to the Concessionaire.

**2.3 Renewals.** This Agreement is subject to and the City shall have the sole right to extend the Term of this Agreement by **three (3) years**. The City may exercise its option to extend the term of this Agreement by providing Concessionaire with written notice thereof at least **six (6) months** prior the end of the then current term of this Agreement. Renewal shall require the approval of the City Council and, if granted, may require the execution of an appropriate Renewal document.

**2.4 Holding Over.** If Concessionaire remains in possession of the Premises after the expiration or earlier termination of the Term, without written permission from the City, such holding over will not be deemed to operate as a renewal or extension of this Agreement, nor will it create a tenancy at will. Concessionaire's holding over in any portion of the Premises will create a month-to-month tenancy on the same terms and conditions contained herein, except (a) the monthly Rent payable to the City shall be equal to twice the monthly rate existing during the last month of the Term and (b) either party may terminate this Agreement upon thirty (30) days prior written notice to the other party.

### **3. USE**

**3.1 Non-Exclusive.** Concessionaire will have the exclusive right to provide the Services within and from the Premises. However, the parties hereto agree that Concessionaire's rights hereunder are not exclusive to the Airport and the City is free to procure the same or similar services anywhere in the Airport.

**3.2 Use of Premises.** Concessionaire must use the Premises to sell the following goods, items, services or commodities: coffee, tea, juice and other non-alcoholic beverages, light snacks and certain retail items (all of which must be pre-approved by the Aviation General Manager), in accordance with the terms and conditions contained herein, including but not limited to the Scope of Services delineated on the attached **Exhibit A**.

**3.3 Pricing.** Concessionaire must submit all of its proposed prices to the Aviation General Manager for review at least thirty (30) days prior to Concessionaire offering its services to the public. Concessionaire may not charge any prices that have not been approved in writing by the Aviation General Manager, once Concessionaire's initial proposed prices are approved in writing. Concessionaire must submit any proposed price changes to the Aviation General Manager for approval prior to implementation.

**3.3.1 Street Plus Ten Percent (10%) Pricing.** To determine street plus ten percent (10%) prices, the Aviation General Manager may, at any time, conduct a market basket pricing survey. The 'Market Basket Pricing Survey' shall consist of at least three (3) and up to six (6) metropolitan Atlanta area same store or similar store locations where residents, travelers or visitors normally shop. Concessionaire's price on any specific item may not exceed the average price of those locations plus an additional ten percent (10%) ("**Street Plus Ten Percent (10%) Pricing**"). Concessionaire acknowledges and agrees that the Aviation General Manager has the sole discretion to determine whether a price is reasonable.

**3.3.2 Same Store Pricing.** For any operations where Concessionaire currently operates the same or similar store in the metropolitan Atlanta area, Concessionaire may not charge higher prices at the Airport for like or similar items. The Aviation General Manager has the right to survey prices at those stores and to use these prices for same or similar items as the

primary basis for pricing in the Premises. If the same brand does not exist in metropolitan Atlanta area, the Concessionaire shall charge Street Plus Ten Percent (10%) Price.

**3.4 Continuous Operation of Premises.** Concessionaire must operate the Premises without interruption, throughout the Term and provide all required Services to the extent permitted by law and provided that Concessionaire is lawfully entitled to possession of the Premises.

**3.5 Hours of Operation.** The Premises must be open for business three hundred sixty-five (365) days a year from 7 a.m. – 10 p.m. or unless otherwise specified by the Aviation General Manager.

**3.5.1** The Hours of Operation must be posted at each store location in a format approved by Aviation General Manger. Concessionaire may be required to keep its stores open for additional hours, including without limitation, up to twenty-four (24) hours a day, with very limited notice, under circumstances warranting such additional hours, as determined by the Aviation General Manager in his/her sole discretion.

**3.6 Customer Service.**

**3.6.1** The Aviation General Manager shall have the right to make reasonable objections to the quality of articles sold, the character of the service rendered to the public, the prices charged and the appearance and condition of the Premises. Concessionaire agrees to promptly discontinue or remedy any objectionable practice. Concessionaire must also comply with the Concessions Compliance Standards established by the Aviation General Manager. A copy of the Concessions Compliance Standards, which are by this reference incorporated herein and are subject to amendment by City at any time, are available on the Airport's website ([www.atlanta-airport.com](http://www.atlanta-airport.com)) under Business Information.

**3.6.2 Customer Service Quality Assurance and Mystery Shopper Standards.** The City's mission is to operate the world's best airport by exceeding customer expectations. Well-defined and highly effective customer service programs are expected from all concessionaires. All concessionaires will undergo scheduled and unscheduled monthly quality assurance audits in order to ensure optimal customer service performance. Basic standards of customer service include, but are not limited to, the following: promptly greeting the customer with a smile; making eye contact; being friendly and knowledgeable about the Airport; listening and responding politely; presenting a receipt and the correct change to the customer; and thanking the customer with a smile. In addition, the Concessionaire must understand and agree that its operation at the Airport necessitates the rendering of the following passenger services: making reasonable change for U.S. currency; offering passengers directions and assistance; and accepting at least four (4) major credit cards (i.e., Visa, MasterCard, Discover, and American Express) as payment for any debit or credit transaction. Further, DOA highly encourages and may ultimately require the implementation of expedited payment options, which may include but is not limited to MasterCard PayPass® technology as well as "Mystery Shopper Services" to ensure consistent performance.

**3.6.2.1** DOA requires Concessionaire and its staff to attend customer service training and all other such classes at the Concessionaire's expense, and/or as directed by the Aviation General Manager. All training as provided by the Concessionaire to its associates must comply with the Airport's compliance standards of customer service. Any costs associated with such additional training is the sole responsibility of Concessionaire.

**3.6.2.2** A high quality and stable work force is key to providing outstanding customer service. Concessionaire is expected to maintain a positive work environment that encourages the development and growth of all employees. Concessionaire is expected to maintain favorable turnover rates compared to like businesses in the industry. Failure to do so may, in the Aviation General Manager's sole discretion, result in non-renewal or termination of this Agreement.

**3.6.2.3** Concessionaire's staff must be aware of the time sensitive nature of Airport patrons. Concessionaire's employees shall be courteous and helpful to the public.

**3.6.2.4** Concessionaire shall conduct its operation in a business-like manner. Concessionaire must carry a sufficient quantity of inventory to ensure that the Premises will be fully stocked and available to passengers at all times. All inventories must be top quality and displayed in an "opening day fresh" manner. In addition, a dress code, approved by the Aviation General Manager in advance, should be strictly adhered to for all operating staff.

**3.6.2.5** Concessionaire agrees to offer take out packaging to enable customers to more easily transport items through the Airport. Concessionaire shall use compostable service ware along with consumer facing packaging and source separate all food service wastes for direct transport to off-airport composting facilities. Costs attributable to Concessionaire for complying with the waste separation initiative will not exceed \$10 per square foot over and above trash removal and recycling costs, including labor and dumpster fees, assessed to concessionaires.

**3.7 Marketing.** In order to support and fuel the Airport's concessions program, Concessionaire shall pay a marketing fee equivalent to one-half of one percent (0.5%) of Concessionaire's Gross Revenues in addition to all other rental, fees and other charges payable hereunder. The marketing fee will cover development of signage and other promotional materials and programs including, but not limited to, advertising, employee incentives and brochures/informational materials and technology to communicate the program offerings. The use and application of the marketing fees will be at the sole discretion of the Aviation General Manager. Concessionaire must support marketing programs by providing concept information, logos or initiating promotional materials as requested. Costs for any new materials will be supported by the collected marketing fees. Tenant will not be required to offer discounts outside of the established pricing policy.

**3.8 Prohibition of Solicitation.** Concessionaire is strictly prohibited from engaging in any activities outside the Premises within the Airport for the recruitment or solicitation of business. Concessionaire may not place or install any carts, kiosks, inline store, racks, or stands, or display merchandise or trade fixtures outside the boundaries of the Premises without the express written consent of the Aviation General Manager. Additionally, Concessionaire is prohibited from soliciting funds (or permitting the solicitation of funds) on or from the Premises in violation of Code Section 22-146 et seq.

**3.9 Representative of Concessionaire.** Concessionaire must at all reasonable times retain in the Airport at least one (1) qualified representative, authorized to represent and act for it in matters pertaining to this Agreement and its operations at the Airport and must keep the Aviation General Manager informed in writing of the identity of each such person.

**3.10 Investigation Reports.** Concessionaire must, if required in writing by the Aviation General Manager, employ, at its own cost and expense, an investigative organization approved by the Aviation General Manager for the purpose of making investigations and observations and preparing a written report on the carrying out of any pricing policies, revenue control and operational techniques being used at the Premises. Concessionaire must cause such investigation and observation to be made at reasonable times and in the manner set forth in the Aviation General Manager's written directive to Concessionaire, and the investigator must deliver to the Aviation General Manager a true and complete written copy of any such report made to Concessionaire within the timeframe designated by the Aviation General Manager.

**3.11 Ingress and Egress; Security Regulations.** Concessionaire possesses the right of ingress to and egress from the Airport as may be necessary to fulfill its obligations under this Agreement, subject to Airport rules and regulations, and agrees that the exercise of such right must not impede or interfere unduly with the operation of the Airport by City, its tenants, contractors, airline passengers, the public or other authorized occupants. Concessionaire agrees that its rights under this Agreement are subject to all security regulations and/or restrictions that may exist or come into existence and be imposed by any governmental entity having jurisdiction over the Airport and security matters pertaining to it. Concessionaire will have no claim for relief of rent or other remedies as a result of the imposition of such security regulations, other than as specifically identified in the Section entitled "**Reduction in Rent Due to Change in Enplanements,**" or as otherwise allowed herein.

**3.12 Reservations by City.**

**3.12.1** City has the right, without any obligation to do so, at any reasonable time and as often as it considers necessary:

**3.12.1.1** to inspect any portion of the Premises;

**3.12.1.2** to enter the Premises and make ordinary repairs;

**3.12.1.3** to take such action in the event of an emergency concerning the Premises as may be required for the protection of persons or property. In the event the need to take such emergency action is caused by acts or omissions of Concessionaire (or Concessionaire's employees, contractors, agents or assignees), Concessionaire will reimburse City for the City's costs associated with such emergency actions. Further, Concessionaire must assure City of emergency access to the Premises by providing emergency telephone numbers at which Concessionaire's representative(s) may be reached on a twenty-four (24) hour a day basis.

### **3.13 Compliance with Laws and Regulations; Licenses and Permits.**

**3.13.1** Concessionaire must at all times during the Term comply with all the applicable federal and state laws, local ordinances, codes, rules and regulations respecting Concessionaire's use and occupation of the Premises issued by any governmental entity having jurisdiction over the Airport, including, but not limited the City and the Aviation General Manager.

**3.13.2** Concessionaire shall be solely responsible for the cost of obtaining and maintaining all licenses and permits necessary to operate at the Airport and perform all required Services.

**3.14 Prohibited Uses.** The Premises may only be used for the sole purpose(s) specifically set forth in the Section entitled "Use." Additionally, Concessionaire acknowledges and agrees that it may not do, or cause or permit anything to be done in or about the Premises, or bring or keep anything on the Premises that:

**3.14.1** increases in any way the rate of fire insurance or other insurance applicable to the Airport or its concourses, or any of its contents;

**3.14.2** creates a nuisance;

**3.14.3** in any way obstructs or interferes with the rights of others in the Airport, or injuring or annoying them;

**3.14.4** allows any sale by auction on the Premises;

**3.14.5** commits any waste upon the Premises;

**3.14.6** uses or allows the Premises to be used for any improper, immoral, unlawful or objectionable purpose;

**3.14.7** places any loads upon the floor, walls or ceiling which endanger the structure;

**3.14.8** obstructs the sidewalk, passageways, stairways or escalators in front of, within or adjacent to the Airport, its concourses or other facilities; or

**3.14.9** does or permits to be done anything in any way tending to injure the reputation of City or the appearance of the Airport, its concourses or other facilities.

**3.15 Trash Removal.** All waste matter must be stored and disposed of in a manner satisfactory to the Aviation General Manager, and Concessionaire agrees to arrange for the timely disposal of all waste material at its own expense. Concessionaire will be responsible for the removal of Concessionaire's trash from the Premises and transfer to designated waste receptacles.

#### **4. ASSIGNMENT OR SUBLETTING**

**4.1** Concessionaire may not assign, transfer or encumber its interest in this Agreement or any other right, privilege or license conferred by this Agreement, either in whole or in part, without the prior written consent of City. Furthermore, Concessionaire may not sublet or encumber the Premises, or any part of it, without the prior written consent of City. Any attempted assignment, transfer, encumbrance or sublease without the prior written consent of City is deemed automatically null and void and of no force or effect.

**4.2** If Concessionaire is a partnership, limited liability company or joint venture, a withdrawal or change (whether voluntary, involuntary or by operation of law) of the partner/member/joint venturer or partners/members/joint venturers owning more than fifty percent (50%) (as measured by interests in capital, profits or such other measurement as City may reasonably designate) of the partnership/ limited liability company/joint venture, or the dissolution of the partnership/ limited liability company/joint venture, will be deemed an assignment and subject to the terms and conditions set forth in this Section.

**4.3** If Concessionaire is a corporation, any dissolution, merger, consolidation or other reorganization of Concessionaire, or the sale or other transfer of a controlling percentage of the capital stock of Concessionaire, or the sale of more than fifty percent (50%) of the value of the assets of Concessionaire, will be deemed an assignment subject to this Section. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing more than fifty percent (50%) of the total combined voting power of all classes of Concessionaire's capital stock issued, outstanding and entitled to vote for the election of directors. This paragraph will not apply to corporations the stock of which is publicly traded through an exchange or over the counter.

#### **5. RENTAL PAYMENTS**

##### **5.1 Rental Payments.**

**5.1.1** The total rental payment for the first year of this Agreement shall be the greater of Concessionaire's Minimum Annual Guarantee ("MAG") of \$\_\_\_\_\_ or \_\_\_\_\_ percent (\_\_\_\_%) of the Concessionaire's Gross Receipts ("Percentage Rent") over the first year of the Term. In each subsequent year during the Term of this Agreement (including any years during a renewal Term) the MAG for the applicable year will be adjusted to equal the higher of (1) the previous year's MAG; or (2) eighty-five percent (85%) of the total rent owed by Concessionaire during the previous year.

**5.1.2** Rent to be paid each month under this Agreement will be the higher of one twelfth (1/12<sup>th</sup>) of the MAG or Percentage Rent (Percentage of Gross Receipts) as stated above.

**5.1.3** The term "Gross Receipts" shall include and/or all monies paid or payable to Concessionaire or concessionaire's subconcessionaire for sales made or services rendered at or from the Airport, regardless of when, where, or whether the business transaction occurs on or off of the Airport property as well as any other revenues of any type arising out of or in connection with Concessionaire's operations at the Airport under this Agreement, provided, however, that any taxes imposed by law which are separately stated to and paid by the customer and directly payable to the taxing authority by Concessionaire shall be excluded.

**5.1.4** Rent will be paid monthly in advance, beginning on the 150th day after the Commencement Date (i.e., \_\_\_\_\_, 20\_\_). Concessionaire will pay one-twelfth (1/12th) of the MAG on the first day of each month. By the tenth (10th) day of each month, Concessionaire will submit a report, in a form provided by DOA, of actual Gross Receipts received during the previous month along with the calculation of Percentage Rent for such previous month and if greater than the previously paid MAG a check representing the additional rent owed to it as a result of such Percentage Rent calculation.

**5.1.4.1** Annual Rent for each contract year will be trued up in the first quarter of the following contract year in conjunction with the annual report due from Concessionaire to City under Section 5.2.4 of this Agreement. Any overpayments made to the City will be reimbursed in the following year through rent credits.

**5.1.5** Minimum Annual Guarantee rental paid after the tenth (10th) of the month and Percentage Rent and marketing fee paid after the twenty-fifth (25th) day of the following month will be deemed a late payment and shall incur interest as additional rent at the rate of one-tenth (1/10th) of one percent (0.1%) compounded daily from the date due until the date received by the City.

**5.1.6** The Marketing Fee is due by the twentieth (20th) day of the each month and shall be paid to the City separately from any payment of rent.

**5.1.7 Method of Payment.**

**5.1.7.1** Rental for any partial month shall be prorated, if applicable. Rental payments shall be made in lawful money of the United States, free from all claims, demands, set-offs abatement or counterclaims of any kind against City. All rental payments shall be payable at:

City of Atlanta  
Department of Aviation  
P.O. Box 920500  
Atlanta, Georgia 30392

**5.1.7.2** City may require payment at such other place as the Aviation General Manager may from time to time designate to Concessionaire in writing.

**5.1.7.3** No payment by Concessionaire or receipt by City of a lesser amount than the correct rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction. City may accept such check or payment without prejudice to City's right to recover the balance or to pursue any other remedy in this Agreement or otherwise provided by applicable law or equity.

## **5.2 Books and Records.**

**5.2.1** Concessionaire must maintain throughout the Term of this Agreement and for a three (3) year period after the Term, or, in the event of a claim by City, until such claim of City for payments hereunder shall have been fully ascertained, fixed and paid, separate and accurate, daily records of Gross Revenues from all activity conducted under this Agreement in accordance with generally accepted accounting principles, showing in detail all business on or transacted in, about, from or pertaining to the Premises, and Concessionaire must enter all receipts arising from such business in regular books of account, and all entries in any such records shall be made at or about the time the transactions occur.

**5.2.2** In addition, Concessionaire shall maintain weekly, monthly and annual reports of Gross Revenues and transactions derived from its operations under this Agreement, using a form and method as directed by the Aviation General Manager. Concessionaire, throughout the Term of this Agreement, shall employ such forms and methods. Upon the Aviation General Manager's written request, Concessionaire must make available immediately at the Airport, for inspection and copying by the Aviation General Manager, any and all books, records and accounts pertaining to its operations or performance of its obligations under this Agreement. The intent and purpose of the provisions of this Section are that Concessionaire must keep and maintain records which will enable City to ascertain, determine and audit, if so desired by City, clearly and accurately, Concessionaire's obligations under this Agreement and the share of Gross Revenues received by City, and that the form and method of Concessionaire's reporting

of Gross Revenue will be adequate to provide a control and test check of all Gross Revenue derived by Concessionaire under this Agreement.

**5.2.3** Should any examination, inspection or audit of Concessionaire's books and records by City disclose an underpayment by Concessionaire in excess of 2% of the total annual consideration due, Concessionaire must promptly pay City the amount of such underpayment, plus interest thereon at the rate of one and one-half percent (1.5%) per month, from the date due until the date collected, and shall reimburse City for all costs incurred in the conduct of such examination, inspection or audit. If City deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such examination, inspection or audit, then Concessionaire must reimburse City for reasonable attorneys' fees and litigation expenses as part of the costs incurred.

**5.2.4** Not later than 90 days after each annual anniversary of the Commencement Date, Concessionaire must furnish to the Aviation General Manager an unqualified report, certified by a Certified Public Accountant of the Gross Revenues. Concessionaire must also furnish the Aviation General Manager with such other financial or statistical reports as the Aviation General Manager from time to time may request. Concessionaire's obligation under this Section shall survive termination, cancellation or expiration of this Agreement.

**5.2.5** Upon request by the Aviation General Manager, Concessionaire must furnish to City copies of its quarterly State of Georgia sales and use tax returns covering the Premises as well as Concessionaire's Georgia and federal income tax returns at the time of filing, and any amendments. All copies of such returns must be certified as exact copies of the original documents by a Certified Public Accountant. Tenants shall also promptly notify the Aviation General Manager of and furnish to City copies of any audit reports covering the Premises conducted by the Department of Revenue of the State of Georgia or the Internal Revenue Service. All of the books, records and accounts required by this Section to be maintained by Concessionaire, or true and complete copies of them, shall be maintained by Concessionaire in the metropolitan Atlanta area.

### **5.3 Revenue Control.**

**5.3.1** All business transactions, which occur in the Premises, must be completed by an approved Point of Sale ("POS") system (e.g., transaction register) and a receipt must be offered to each customer. However, during the Term of the Agreement, including any renewals, the City reserves the right, at its expense, to purchase and/or implement a computerized POS system and to further modify the system from time to time. Concessionaire must cooperate fully in the development and implementation of such a system. Upon implementation, the Aviation General Manager may dictate a new method of collection and payment by providing written notice to Concessionaire. Concessionaire must cooperate with the City in implementing such modified collection procedures. If the new POS system requires replacement of existing cash registers within the Premises, the City will reimburse Concessionaire for the unamortized

cost thereof (based on the then current book value, using the straight-line method of depreciation) less the salvage value of such cash registers. The City will determine the type of registers to be used in the newly implemented POS system.

**5.3.2** In order to facilitate implementation of the POS system, all POS terminals used in the operation of businesses within the Premises must have, at a minimum, the features outlined below:

**5.3.2.1** A minimum of sixty (60) segregated sales categories;

**5.3.2.2** The input device may either be a keyboard, scanner, touch screen, other approved input technology or any combination thereof;

**5.3.2.3** The patron fee display shall be of sufficient size and legibility to be readily observed by the patron during the processing of the transaction;

**5.3.2.4** The POS register, terminal or POS control server(s) shall be capable of secure, encrypted data transmission using TCP/IP or RS-232 communications protocol; and

**5.3.2.5** The register or data collection device shall have a secure transaction audit tape or a detailed digital ASCII transaction journal log file stored on a USB (flash) drive or other suitable media.

**5.3.3** Concessionaire must also comply with the most current Payment Card Industry Data Security Standard (PCI-DSS) requirements as detailed at [https://www.pcisecuritystandards.org/security\\_standards/pci\\_dss.shtml](https://www.pcisecuritystandards.org/security_standards/pci_dss.shtml), as amended from time to time.

**6. TAXES AND LIENS.** Concessionaire is liable for all taxes levied or assessed against any interest of Concessionaire in the Premises and any improvements, personal property, furniture or fixtures or equipment placed by Concessionaire in the Premises. Concessionaire agrees not to permit or suffer any liens to be imposed upon the Premises, the Airport or any other part of them as a result of its activities without promptly discharging them, provided, however, that Concessionaire may, if Concessionaire so desires, contest the legality of any such liens. In the event of a contest, Concessionaire must provide a bond in an amount and form acceptable to City in order to clear the record of any such liens.

**6.1** Notwithstanding the foregoing, the Aviation General Manager may authorize Concessionaire to pass through to the customer certain possessory interest taxes payable by Concessionaire directly to various taxing authorities, provided that such pass-through is reflected as a separate line itemization on each invoice or receipt issued to the customer. Concessionaire must follow the following guidelines in implementing the collection of such taxes at point of sale.

**6.1.1** In year one, to determine the possessory interest tax (% of sales receipts) to collect at each transaction in the upcoming 12-month period, divide the tax assessment received by the taxing authority by the projected annual sales receipts for the same time period

$$\text{Tax assessment} / \text{projected annual sales receipts} = \text{possessory tax.}$$

**6.1.1.1** The calculation along with tax assessment invoices must be submitted to, and approved by, the Department of Aviation prior to implementation of collection of taxes at point of sale related to these taxes.

**6.1.2** Apply the calculated possessory tax to all sale receipts. The collection of this tax may only be used to pay possessory interest tax obligations only.

**6.1.3 Tax collection in subsequent years:**

**6.1.3.1** In the situation where one year's collections exceed the amount of possessory interest taxes due ("collection surplus"), the remaining balance must be used as a credit against the following year's taxes. Therefore Concessionaire must deduct the previous year's collection surplus from the following tax assessment received before dividing it by the applicable projected annual sales.

$$(\text{Tax assessment} - \text{collection surplus}) / \text{projected annual sales receipts} = \text{applicable possessory tax for the upcoming year}$$

**6.1.3.2** In the situation where one year's collections fail to raise the amount of possessory interest taxes due ("collection shortfall"), the collection must be used as a debit against the following year's taxes. Therefore Concessionaire must add the previous year's collection shortfall to the current year's tax assessment received before dividing it by the applicable projected sales.

$$(\text{Tax assessment} + \text{collection shortfall}) / \text{projected annual sales receipts} = \text{applicable possessory tax for the upcoming year}$$

**6.1.3.3** Reconciliation of prior year taxes collected along with calculation of new tax rate and supporting tax assessment notices must be submitted to, and approved by, the Department of Aviation prior to any adjustment being made to the tax rate at the point of sale. Such reconciliation must occur no later than August 1<sup>st</sup> annually.

**6.2** Concessionaire and all of its subconcessionaires shall complete and execute Georgia Department of Revenue ("GDOR") Form RD-1062, which shall be attached to this Concessions Agreement as Exhibit D and incorporated herein, authorizing the GDOR to disclose to the City

information regarding delinquent payment or nonpayment of State Income and Sales and Use taxes related to the Concessionaire's operations under this Agreement.

## **7. IMPROVEMENTS**

### **7.1 Approval of Conceptual Design.**

**7.1.1** The initial layout and design of all Concessionaire Improvements to be made or installed within the Premises and any subsequent refurbishments shall conform to the Department of Aviation Airport Design Criteria ("**Airport Design Criteria**") which shall be made available to Concessionaire upon the Airport's website ([www.atlanta-airport.com](http://www.atlanta-airport.com)) and shall be subject to amendment from time to time by the Aviation General Manager.

**7.1.2** Prior to the commencement of initial construction, or subsequent refurbishment of, or other work with respect to Concessionaire Improvements, Concessionaire must submit detailed plans and specifications to the Aviation General Manager for approval. Concessionaire must include with its plans and specifications schematic renderings of the Premises, materials, a color board or boards and a detailed layout of the overall merchandising plan. Approval by City will extend to and include architectural and aesthetic matters and City reserves the right to reject any designs submitted and to require Concessionaire to resubmit designs and layout proposals until they meet City's approval. The Commencement Date shall not be extended if City elects to reject any designs or layout Proposals submitted. If City and Concessionaire fail to agree on plans and specifications for Concessionaire Improvements within thirty (30) days after the Commencement Date, City may terminate this Agreement.

**7.1.3** In the event of disapproval by City of any portion of the plans and specifications, Concessionaire will promptly submit necessary modifications and revisions. Concessionaire will make no changes or alterations in the plans or specifications after approval, and no structural alterations or improvements will be made to or upon the Premises without the prior written approval of the Aviation General Manager. City agrees to act promptly upon such plans and specifications and upon requests for approval of changes or alterations in the plans or specifications. One copy of plans and specifications for all Concessionaire Improvements or subsequent changes or alterations will, within fifteen (15) days after approval by the Aviation General Manager, be signed by Concessionaire and delivered to the City.

### **7.2 Minimum Investment; Base Building Improvements; Reinvestment.**

#### **7.2.1 Minimum Investment.**

**7.2.1.1** Within the Premises defined by demising partitions and/or other boundaries described in the Agreement, Concessionaire shall perform all demolition required and shall at its own expense construct all improvements and install all trade fixtures according to the procedures and standards specified in the Airport Design Criteria.

**7.2.1.2** Within thirty (30) days of receiving a certificate of occupancy, Concessionaire is required to submit to the Aviation General Manager as-built drawings.

**7.2.1.3** Within one hundred twenty (150) days of the Commencement Date, or otherwise pursuant to a transition plan approved by the Aviation General Manager, Concessionaire shall decorate and finish to approved standards the interior and exterior of the Premises. The design and theme must be submitted to the Aviation General Manager, and he/she must approve them prior to implementation. The public visible area of the Premises shall be improved at a minimum investment amount equal to two hundred fifty Dollars (\$250.00) per square foot. In addition, Concessionaire is responsible for demolition necessary to accommodate all improvements. The two hundred fifty Dollars (\$250.00) minimum investment amount calculation shall include all construction costs, mechanical, electrical and plumbing (whether in areas visible to the public or not), finishes, furnishings, furniture, casework, or other fixtures, signs, store fronts, as well as all architectural and engineering fees.

**7.2.1.4** Within thirty (30) days of receiving a certificate of occupancy, Concessionaire shall provide the City a statement certified by its architect, setting forth the total construction costs, with appropriate detail showing the costs and useful lives of elements of decoration, furnishings or fixtures. Concessionaire shall make available to Aviation General Manager paid invoices for labor and materials covering all construction and trade fixtures, including furniture, fixtures and architectural and engineering fees. The two hundred fifty Dollars (\$250.00) Minimum Investment may not include financial costs, interest, inventory, pre-opening expenses or intra-company charges related to construction. If the actual Investment cost incurred by the Concessionaire is less than the Minimum Investment required, in addition to any other remedy available to the City, Concessionaire will pay the difference to City within sixty (60) days after receipt of Certificate of Occupancy. If the City disputes the amount of investment claimed by Concessionaire, the City may, at its expense, hire an independent appraiser to determine the cost of the investment. If the independent appraiser determines that the investment is less than the minimum required, the difference, as well as City's costs of hiring such independent appraiser, will be paid to the City by Concessionaire within sixty (60) days of the appraiser's determination.

**7.2.1.5** Notwithstanding the work to be performed pursuant to this Section Concessionaire shall begin paying rent on the Commencement Date, and Concessionaire must document any and all costs of Concessionaire Improvements made to the Premises subsequent to the Commencement Date. The documentation must be in a form and detail satisfactory to the Aviation General Manager, and must be submitted for review and approval within thirty (30) calendar days following completion of the work, for the purpose of establishing the unamortized costs of improvements to be reimbursed to Concessionaire in the event of termination for convenience by the City.