CITY OF ATLANTA
HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT

REQUEST FOR PROPOSAL

FC-8510
BRANDED COFFEE CONCESSION – CONCOURSE A

MIGUEL SOUTHWELL
AVIATION GENERAL MANAGER
DEPARTMENT OF AVIATION

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CIPC, CISCC, CIGPM
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CITY OF ATLANTA

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CIPC, CISCC, CIGPM
Chief Procurement Officer
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October 22, 2015

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-8510, Branded Coffee Concession - Concourse A at Hartsfield-Jackson Atlanta International Airport**. This solicitation will require the successful Proponent to design, finish, furnish, maintain, and operate one (1) Branded Coffee Concession location on Concourse A for the Department of Aviation at Hartsfield-Jackson Atlanta International Airport.

A **Pre-Proposal Conference** will be held on **Tuesday, November 10, 2015, at 10:00 A.M., at the Hartsfield-Jackson 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. **A site tour will immediately follow the conference.**

The last date to submit questions will be **Friday, November 13, 2015, no later than 5:00 P.M.** Questions may be sent to **Mano Smith, Contract Administrator, CPPO, CPPB, CPPM, CPP,** via email at mosmith@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 ("**Proposal**") 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 Wednesday, December 2, 2015.** Any Proposal received after this time will not be considered and will be rejected and returned.

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

If you have any questions regarding this project, please contact **Mano Smith, Contract Administrator, CPPO, CPPB, CPPM, CPP,** at 404-330-6351, or by email at mosmith@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 Assistance Senior, at 404-330-6903, or by e-mail at 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 when it is for good cause and in the best interest of the City.

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

Sincerely,

Adam L. Smith

ALS:mas

CITY OF ATLANTA

Hartsfield-Jackson Development Program Technical Support Campus
1255 South Loop Road, College Park, Georgia 30337
Phone No.: 404-530-5500

D I R E C T I O N S

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 H-JDP 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 Road
- Exit at Loop Road
- The H-JDP 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 Road
- Follow signs for Loop Road, go through traffic light
- The H-JDP 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 H-JDP 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 H-JDP 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 Road
- Continue on N Inner Loop Road, crossing over Aviation Blvd, and road then becomes South Inner Loop Road
- Stay on S Inner Loop Road until you see the "Road Closed" signs
- The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)

FOR INFORMATIONAL PURPOSES ONLY

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PART 1: INFORMATION & INSTRUCTION TO PROPONENTS

Part 1

Information and Instructions to Proponents

FC-8510: BRANDED COFFEE CONCESSION – CONCOURSE A

1. **Services Being Procured:** This Request for Proposal ("**RFP**") from qualified proponents ("**Proponent**" or "**Proponents**") by the City of Atlanta ("**City**"), on behalf of its Department of Aviation ("**DOA**"), seeks to procure the following services ("**Services**"): to design, construct, operate, maintain and manage one (1) Regional or National Branded Coffee Concession location ("the **Premises**") consisting of approximately 294 square feet on Concourse A near Gate 28, at the Hartsfield-Jackson Atlanta International Airport ("**Airport**") on a non-exclusive basis. A more detailed Scope of Services sought in this procurement is set forth in **Exhibit A** of the Concessions Lease Agreement attached hereto at Part 5 of this RFP ("**Agreement**").

   The initial term of the Agreement to be executed with the successful Proponent shall begin on the Commencement Date (as defined in the Agreement) and is anticipated to terminate on or by April 30, 2025, unless earlier cancelled or terminated in accordance therewith. The termination date is intended to coincide with other concessions lease agreements in effect on Concourse A.

2. **General Information:** The Airport is owned by the City and is operated by DOA. It is located 10 miles from downtown Atlanta on 4,750 acres. In 2013 the total enplaning passengers at the airport was 47 million.

3. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City of Atlanta's Code of Ordinances, including its Procurement and Real Estate Code, and the particular method of source selection for the services sought in this RFP is Code Section 2-1189; Competitive Sealed Proposals. By submitting a Proposal concerning this procurement, Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City's Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.

4. **Minimum Qualifications; Authority to Transact Business in Georgia:** Each Proponent and each of the Proponent's subconcessionaires must meet the following minimum qualifications:

   4.1. Submission of a complete proposal package completed by the stated due date in response to this RFP;

   4.2. Provide evidence that it has at least three (3) consecutive years' experience within the last ten (10) years in the operation and management of one or more food and

beverage locations in an airport, transportation center, mall or street locations or other prominent food and beverage setting cumulatively generating a minimum of $800,000 (Eight Hundred Thousand U.S. Dollars and Zero Cents) in annual gross revenue and present evidence of that experience in its proposal.

4.3. All personnel working in these premises must successfully pass a background investigation in accordance with the Airport's security policies.

4.4. Each Proponent must submit with its proposal documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.

4.5. If the Proponent is a partnership, joint venture or newly formed entity (e.g., limited liability company or corporation), for the purpose of responding to this RFP, the minimum requirements set forth in this Section (and throughout the RFP) must be satisfied by the entity or individual(s) that owns and controls a majority equity interest (50%+) of the partnership, joint venture or newly formed entity.

4.6. No Proponent or entity comprising Proponent may submit more than one proposal under the same or different names or as part of multiple organizations. The City reserves the right to disqualify any Proponent or entity comprising Proponent that submits more than one Proposal in response to this solicitation.

5. **No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by the city to enter into an Agreement and cannot be accepted by any Proponent to form an agreement. This procurement is an invitation for offers from interested Proponents and no offer shall bind City. Proponent's offer is a firm and may not be withdrawn except under the rules specified in the City's Code and other applicable law.

6. **Pre-Proposal Conference/Site Tour:** Attendance at the pre-proposal conference is not mandatory; however, it is recommended that each Proponent attend the Pre- Proposal Conference and tour that is scheduled for **Tuesday November 10, 2015, at 10:00 A.M.,** at the Airport's **Technical Support Campus, 1255 South Loop Road, College Park, Georgia.** Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services. Any failure to fully investigate the Premises shall not relieve any proponent from responsibility to properly evaluate the difficulty or cost of successfully performing the Services. **The Site Tour will immediately follow the conference.**

7. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP should be submitted in writing to the City's contact person, **Mano Smith, CPPO, CPPB, CPP, Contract Administrator**, Department of Procurement, 55 Trinity Avenue, S.W., City Hall, Suite 1900, Atlanta, Georgia 30303-0307, by fax (404) 658-7705 or e-mail **mosmith@atlantaga.gov**, on or before **Friday, November 13, 2015 at 5:00 P.M**. Questions submitted after the designated period will not be considered. Any response made by the City will be provided

in writing to all Proponents by addendum. It is the responsibility of each proponent to obtain a copy of any addendum issued for this procurement by monitoring the City's website at www.atlantaga.gov and its Department of Procurement's Plan Room which is open during posted business hours at Department of Procurement, 55 Trinity Avenue, S.W., Suite 1900, Atlanta, Georgia 30303-0307. 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.

8. **Proposal Deadline:** Proposals 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., on Wednesday December 2, 2015.** Any proposal submitted after this time will not be considered and will be rejected and returned.

9. **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.

10. **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.]"

11. **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 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 with the authority to bind Proponent hereto); (d) any information or disclosure provided in response to Form 2: Contractor Disclosure Form are accurate representations up to and including the date Proponent submitted its proposal to the City; (e) the City will not agree to make any substantive revisions to the Service Agreement; and (f) it agrees that 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.

12. **Applicable OCC Programs:** The City's OCC Programs applicable to this procurement are set forth in **Appendix A** attached hereto. By submitting a proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.

13. **Insurance and Bonding Requirements:** The insurance and bonding requirements for any contract that may be awarded pursuant to this RFP are set forth in **Exhibit D** attached to the form of Concessions Agreement included in this RFP. 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 this Agreement.

14. **Examination of Proposal Documents:**

    14.1. Each Proponent is responsible for examining with appropriate care, the complete RFP and all 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.

    14.2. Each Proponent shall promptly notify City in writing on or before **5:00 PM** on **Friday, November 13, 2015** should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an addendum to the RFP.

    14.3. The City may in accordance with applicable law, 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 issued Addendum.

15. **Rejection of Proposals; Cancellation of Solicitation; Waiver of Technicalities.** The City reserves the right to reject any Proposal or all Proposals, to waive any technical defect in a Proposal, or to cancel this Procurement at any time in accordance with the City of Atlanta Code of Ordinances.

16. **Award of Concessions Agreement; Execution:** If the City awards an Agreement pursuant to this Procurement, the City will prepare and forward to the successful Proponent a Concessions Lease Agreement for execution substantially in the form included in **Part 5** of this RFP.

17. **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.

18. Additional Information Regarding Premises Location:

18.1. **Required Airport Infrastructure Upgrades** – The Airport's infrastructure may require that additional equipment may be needed during construction of the Leased premises to satisfy current codes, ordinances or airport construction requirements. This equipment could include a 1,500 gallon grease interceptor, electrical grounding plates and/or stainless steel waste lines. If it is determined that this equipment is required for the concession space being developed, concessionaire must, at its sole initial expense, design, construct and install these improvements. The City agrees to reimburse Concessionaire for base building improvements to include a 1,500 gallon in-ground grease interceptor, electrical grounding plates and stainless steel upgrade of waste lines from cast iron material, if required. All requests for reimbursement must be (1) approved by the Airport's Department of Aviation Planning and Development staff; and (1) submitted with supporting documentation (including proof of payment) at the completion of the project. Concessionaire will be responsible for maintenance and repair of this equipment, and shall maintain all records relative thereto, throughout the Term of the Lease Agreement.

18.2. **Utilities** – The City will provide the source for certain utility connections for the concession spaces as specified in the Airport Design Criteria. Generally, electrical service will be provided to each concession's rear or side demising wall and stubbed off. Connection and distribution throughout the concession space shall be at the Concessionaire's expense. All utilities to the concession space will be separately metered. For more information about Utilities, please see Section 7.4 of the Concessions Lease Agreement attached hereto at Part 5.

PART 2: CONTENTS OF PROPOSALS/REQUIRED SUBMITTALS

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; no other format will be considered. A proposal will consist of two (2) separate volumes: Volume I will consist of information drafted and provided by the Proponent; and Volume II will consist of information provided by the Proponent on forms provided by the City in this RFP.

2. **VOLUME I (Information drafted and provided by a Proponent):**

   2.1. Executive Summary: The executive summary must include a letter with the Proponent's name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. It should also designate one (1) contact person to whom all future correspondence and/or communications will be directed by the City concerning this procurement, if that person is different from the person executing the letter. Each Proponent is required to provide an overview of the Proponent's qualifications to provide the Services being procured through this RFP. At a minimum, the Executive Summary must contain the following information:

   2.1.1. Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent must provide the domicile where each entity comprising 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;

   2.1.2. If Proponent is a corporation, limited liability company, or other registered entity formed in the State of Georgia, Proponent must include a copy of its Certificate of Incorporation, its Certificate of Organization, or other evidence of its registration with the Georgia Secretary of State.

   2.1.3. If Proponent is a corporation, limited liability company, or other registered entity formed outside the State of Georgia, Proponent must include evidence of its registration with the Georgia Secretary of State.

   2.1.4. A description of the Proponent's plan for complying with the ACDBE goals set forth in Appendix A. This section should include detailed information regarding the essential sub-contractors / subconsultants 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 essential

subcontractor / subconsultant indicating that the firm concurs with the role and responsibility Proponent has described;

2.1.5. A declarative statement as to whether the Proponent or any member of the Proponent team 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.

2.2. **Operations and Management Plan:** The Proponent's Operations and Management Section of the proposal should provide an overview of the Operations of the space and introduce the proposed Proponent Management team by providing the following:

2.2.1. Proponent's Executive and Management Organizational Chart both graphically and in narrative format. The Organizational Chart and narrative should provide a description of the Proponent's views on how it will organizationally provide the Services, as well as depict the relationship of its key personnel roles to that of the Principal-in-Charge and other key members of the management team;

2.2.2 A description of how this organizational structure will facilitate managing the Services requested and how an efficient flow of information will be realized from the organizational structure;

2.2.3 The names of proposed candidates for each function on the chart. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected. In the event there is a need to replace key team members during the course of the project, Proponent must describe its back-up personnel plan.

2.2.4 Customer Service and Operations: This criterion considers, but is not limited to staffing plan, corporate management support; inventory/delivery logistics, employee training programs, employee retention and incentive programs, customer service programs and policies, operations procedures and facility maintenance plan including disposal of trash, grease and service/replacement of equipment.

2.2.5 Information on quality monitoring programs that the Proponent has implemented including sample evaluation forms from quality audits, performance standard evaluations or other similar program.

2.2.6 Information on proposed sustainability program and use of compostable service-ware as well as plans for source separation of food service wastes to be transported to composting.

2.3 Concept and Design:

2.3.1 Merchandising and Concept Plan: This criterion includes, but is not limited to, store name, concept, description and theme, merchandise listing, proposed price range, menu, speed of service targets, proposed innovations and letter of intent for Branded Concept to include brand authorization for submission of concept.

2.3.2 Facility Design: This criterion considers the physical design and construction of the Branded Coffee Concession including, but not limited to, product storage, creativity of design, quality of materials, floor plans, circulation, photographic or renderings illustrating proposed store designs, graphic signage and overall optimal use of space.

2.3.3 Construction Plan:

2.3.3.1 A brief narrative description of the proposed capital improvements to be made and dominant design theme;

2.3.3.2 An identification of Proponent's architectural design team, specifying prior experience in the design of food & beverage facilities (including resumes and project experience); and

2.3.3.3 A construction schedule, identifying major milestones and days to complete each phase of the construction from project start to completion.

2.4 Business Plan: The Proponent's business plan will be judged on the completeness and overall quality of its approach in the operation and management of a Branded Coffee Concession. Proponent must demonstrate the following:

2.4.1 Proponent must demonstrate their range of resources and technical expertise that will be used to generate revenues and control expenses during the term of the proposed agreement;

2.4.2 Proponent's generation of revenue and rent and other expense projections;

2.4.3 Proponent's ability to manage the requisite areas specified, meet the deadlines in its transition plan and construction schedule;

2.4.4 Proponent's pro forma line items will be reviewed carefully for reasonableness and financial impact. Construction and amortization of capital expenses should be included in the pro forma. Line items are expected to reflect actual experience and results.

2.4.5 Proponent is also expected to implement a profitable business with positive cash flow over the life of the Concessions Lease Agreement.

2.4.6 A detailed pro-forma Profit and Loss projections should be provided for each year of the full Term of the Agreement.

2.5 Overall Project Experience and Performance: This criterion measures the competence, qualifications and experience of the key professionals and technical staff. Proponent should describe their experience and qualifications in designing, building, operating and managing a Branded Coffee Concession as described in the Scope of Services.

2.5.1 Minimum Qualifications Required: Proponent must provide evidence that it has a minimum of three (3) years consecutive experience within the last ten (10) years in the operation and management of one or more food & beverage locations in an airport, transportation center, mall or other prominent retail setting generating a minimum of $800,000 (Eight Hundred Thousand U.S. Dollars and Zero Cents) in annual gross revenues in the aggregate.

2.5.2 Key Personnel/Resumes: Provide resumes for key personnel, including all of the Proponent's executive managerial positions included on the Organizational Chart referenced above. Provide a list of all other positions within Proponent's organization and the duties of each position. Resumes should be organized as follows: name and title, professional background, current and past relevant employment, education, certifications and list of three (3) projects that involve a similar Food & Beverage operation with project description, role of individual and reference contact. By submitting a proposal in response to this RFP, Respondent acknowledges and agrees that it is committing to use the individuals identified in Key Personnel for this RFP. In the event there is a need to replace key personnel after Respondent submits its proposal or during the term of this Agreement, changes may only be made with the prior written consent of the Aviation General Manager.

2.5.3 **Letters of Reference:** Letters of reference (on letterhead) from the Proponent's and sub-concessionaires' landlord or property owner, including contact name, address, phone number, and email address may be included.

2.5.4 **Marketing Programs**: Examples of marketing programs undertaken to promote sales and customer service in previous locations, including samples of advertisements, promotional materials, flyers, coupons, etc. may be included.

3. VOLUME II (Information required by a Proponent on forms provided by the City):

3.1 Illegal Immigration Reform and Enforcement Act – Each Proponent must complete and submit a Contractor's Affidavit, attached hereto at **Form 1: Illegal Immigration Reform and Enforcement Act Forms** with its proposal. 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. **Under state law, the City cannot consider any proposal which does not include a completed Contractor's Affidavit.** 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.

3.2 Contractor Disclosure Form – Each Proponent must complete and submit **Form 2: Contractor Disclosure Form** with its proposal.

3.2.1. If the Proponent is an individual, then that individual must complete and sign the Contractor Disclosure (**Form 2**) where indicated.

3.2.2. If the Proponent is a partnership (including but not limited to, joint venture partnership), then each partner in the partnership must complete and sign a separate Contractor Disclosure (**Form 2**) where indicated.

3.2.3. If the Proponent is a legal entity (e.g., corporation, limited liability company), then an authorized representative of that entity must complete and sign the Contractor Disclosure (**Form 2**) where indicated.

3.2.4. If the Proponent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign the Contractor Disclosure (**Form 2**) where indicated, and each of the members or owners of the entity must also complete and sign separate Contractor Disclosure Form where indicated.

3.3. Proponent's Financial Disclosure – Each Proponent must complete and submit **Form 4: Proponent Financial Disclosures** with its proposal. 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 proposal. City will review the information included in **Form 4** attached hereto and any additional information required on that form to be included in a proposal. Failure to accurately report financial information shall be grounds for disqualification of Proponent or termination of any Agreement resulting from this solicitation. In addition, Proponent must provide evidence of its ability to submit the Performance Guarantee, including (a) notarized

letter(s) from Proponent's proposed insurer(s) and surety(ies) indicating that the financial capacity of the Proponent is such that the insurer(s)/surety(ies) is/are willing to issue insurance and Payment and Performance Bonds for the Proponent if a Contract is awarded to it. Further, if this RFP requires a successful Proponent that is awarded a Contract pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if a Contract is awarded to it.

3.3.1. If the Proponent is an individual, financial disclosures for that individual must be provided.

3.3.2. If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.

3.3.3. If the Proponent is a newly formed entity or partnership (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.

3.4. **Acknowledgment of Insurance and Bonding Requirements** – Each Proponent must complete and submit **Form 5: Acknowledgement of Insurance and Bonding Requirements** with its Proposal. The insurance and bonding requirements for any agreement that the City may award pursuant to this RFP are set forth in **Exhibit D: Insurance and Bonding Requirements.**

3.4.1. An authorized representative of the entity must complete and sign this Acknowledgment of Insurance and Bonding Requirements where indicated.

3.5. **Acknowledgment of Addenda** – Each Respondent must complete and submit an acknowledgement with its proposal that it has received all Addenda issued by the City for this RFP. **Form 7: Acknowledgement of Addenda** has been included and may be used to satisfy this requirement.

3.5.1. An authorized representative of the entity must complete and sign this Acknowledgment of Addenda where indicated.

3.6. **Proponent's Contact Directory** – Each Proponent must complete and submit **Form 8: Proponent's Contact Directory** with its proposal to include the names, positions/titles, firms, mailing addresses, phone and fax numbers and (when possible) e-mail addresses for at least two individuals, one (1) primary and one (1)

secondary, who are authorized to represent Respondent for purposes of this RFP and to whom notices regarding the Respondent's qualification may be sent.

3.7. **Referral List** – Each Proponent must complete and submit at least four (4) references that are able to attest to the Proponent's performance, ability and credibility. A separate **Form 9** is required for each reference.

3.7.1. An authorized representative of the entity must complete this Referral List where indicated.

3.8. **OCC Programs**. This criterion is based upon the responsiveness of a Proponent's Airport Concessions Disadvantaged Business Enterprise Program ("**ACDBE**"), the requirement of which is described in **Appendix A** to the Agreement. This criterion is not scored on a sliding scale. Responsive Proponents will receive a score of 15 points. Proponents who fail to evidence a compliant ACDBE program shall be deemed non-responsive.

3.9. **Financial Offer:** Each Proponent must submit a Financial Offer using the form provided by the City at **Part 5; Exhibit A.1**. The Financial Offer shall serve as the baseline for final Minimum Annual Guarantee and Percentage Rent. Submit **one (1) stamped "Original"** and **nine (9) copies** in a separate sealed envelope.

3.9.1. The Proponent will offer a minimum rent to be paid to the City for the first year of the proposed agreement (hereinafter "Minimum Annual Guarantee" or MAG) of at least $110,000 (One Hundred Ten Thousand U.S. Dollars and Zero Cents). 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. In each subsequent year during the Term of this Agreement the MAG for the applicable year will be adjusted to equal the higher of (1) the previous year's MAG; or (2) 85% of the total rent owed by Concessionaire during the previous year.

3.9.2. The category of items that may be sold by the successful Proponent in the Premises (hereinafter "Category" or collectively, "Categories") is Food and Beverage. The Proponent must propose a percentage rent based on Gross Receipts to be paid by completing the percentage rent section on Exhibit A.1 attached to the Concessions Lease Agreement attached hereto at Part 5; however, the percentage rent offered will not be considered in the evaluation of the proposals. The minimum percentage rent that the City will accept for the sale of Food and Beverage on the Premises is fifteen percent (15%).

.

4. Submission of Proposals:

4.1. A 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: **FC-8510: Branded Coffee Concession – Concourse A**, and the name and address of the Proponent. All proposals must be submitted to:

Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP
CIPC, CISCC, CIGPM
Chief Procurement Officer
Department of Procurement
55 Trinity Avenue, S.W.
City Hall, Suite 1900
Atlanta, Georgia 30303-0307

4.2. Each Proponent is required to submit one (1) original and nine (9) copies of Volume I. The original should be clearly marked "Original," and should contain original signature(s). In addition, each Proponent is required to submit one (1) Original and nine (9) copies of Volume II of its proposal. Each proposal must be submitted on 8½" x 11" single-sided, double-spaced, typed pages, 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 the information requirements set forth in this RFP, as well as for the forms required to be submitted.

4.3. Each Proponent is required to submit, in a separate, sealed envelope, clearly marked "**Financial Offer**," one (1) stamped "**Original**" and nine (9) copies of its Financial Offer (**Exhibit A.1**) with its proposal.

5. Submittals: The following submittals must be completed and submitted with each proposal.

Item #	Required Proposal Submittal Check Sheet[1]	Check (√)
	Volume 1	
1.	Executive Summary	
2.	Operations and Management Plan	
3.	Concept and Design	
4.	Business Plan	
5.	Overall Project Experience and Performance	
	Volume 2	
6.	Form 1: Illegal Immigration Reform and Enforcement Act – Contractor Affidavit	
7.	Form 2: Contractor Disclosure Form	
8.	Form 3: Non-Applicable for this RFP	N/A
9.	Form 4: Proponent's Financial Disclosure Form	
10.	Form 5: Acknowledgement of Insurance and Bonding	
11.	Form 6: Non-Applicable for this RFP	N/A
12..	Form 7: Acknowledgement of Addenda	
13..	Form 8: Proponent's Contact Directory	
14.	Form 9: Referral List	
15.	Appendix A: Office of Contract Compliance Submittals	
	FINANCIAL OFFER MUST BE SUBMITTED IN A SEPARATE SEALED ENVELOPE	
16.	Exhibit A.1: Financial Offer	

Notwithstanding this check sheet, Proponents are advised that all submittals required by this solicitation document (whether or not listed in this check sheet) must be completed in-full, and if applicable, signed, sealed and notarized. By submitting a response to this RFP, Proponent acknowledges and agrees that the City has provided this check sheet solely for Proponent's convenience.

[1] This table is included for Proponent's convenience and may be used to track the preparation and submittal of certain required information with its Proposal.

PART 3: EVALUATION OF PROPOSALS

PART 3

EVALUATION OF PROPOSALS

All proposals will be evaluated in accordance with the City's Code of Ordinances and the criteria specified below and considering the information required to be submitted in each proposal. An evaluation committee will review the proposals in accordance with this RFP.

RELATIVE WEIGHT	GRADED ITEM	SCORE
10	Operations and Management Plan	
20	Concept and Design	
15	Business Plan	
10	Overall Project Experience and Performance	
15	Office of Contract Compliance – ACDBE Goals	
10	Financial Statement/Capability	
20	Exhibit A.1 Financial Offer	
100	**TOTAL SCORE**	

For purposes of evaluating all of the Proposals received by the City, the City will assess a score between one (1) 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: REQUIRED SUBMITTAL FORMS

All Respondents, including, but not limited to, corporate entities, limited liability companies, joint ventures, or partnerships, that submit a Proposal or Bid in response to this solicitation <u>must fill out all forms</u> in their entirety, and all forms must be <u>signed</u>, <u>notarized</u> or <u>sealed with the corporate seal</u> (if applicable), as required per each form's instructions.

If Respondent intends to be named as a Prime Contractor(s) with the City, then Respondent <u>must fill out all the forms</u> listed in this solicitation document; otherwise, Respondent may be deemed non-responsive.

FORM 1

Illegal Immigration Reform and Enforcement Act Forms

INSTRUCTIONS TO RESPONDENTS

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

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the respondent's submission prior to the 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 Respondent is such that Respondent is required to obtain an Employer Identification Number ("**EIN"**) from the Internal Revenue Service, Respondent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Respondent itself (see Example 1 below). Where the business structure of a Respondent does not require it to obtain an EIN, each entity comprising Respondent must submit a separate Contractor Affidavit (see Example 2 below).

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

   Example 2, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a response under the name Happy Day, JV. If based on the nature of the JV agreement, Happy Day, JV is not required to obtain an EIN from the IRS, then the response submitted by Happy Day, 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 Respondent's response to the solicitation document.

7. Subcontractor and sub-subcontractor affidavits are not required at the time of response submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

Contractor Affidavit under 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: _____

Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)

By executing this Subcontractor Affidavit, the undersigned subcontractor 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 under a contract with _____ (name of contractor) 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 subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor 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 Subcontractor: _____

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: _____

Sub-subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(4)

By executing this affidavit, the undersigned sub-subcontractor 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 under a contract for _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract) and _____ (name of contractor) 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 sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. § 13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Sub-subcontractor 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 Sub-Subcontractor: _____

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
CONTRACTOR DISCLOSURE FORM
DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE

"Affiliate"	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 Respondent or a member of Respondent.
"Contractor"	Any person, partnership or entity having a contract with the City.
"Control"	The controlling entity: (i) 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 (ii) 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.
"Respondent"	Any individual, partnership or entity that submits a response to a solicitation. If the Respondent is an individual, then that individual must complete and sign this Contractor Disclosure Form where indicated. If the Respondent is a partnership (including but not limited to, joint venture partnership), then each partner in the partnership) must complete and sign a separate Contractor Disclosure Form where indicated. If the Respondent is a legal entity (e.g., corporation, limited liability company), then an authorized representative of that entity must complete and sign this Contractor Disclosure where indicated. If the Respondent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign this Contractor Disclosure Form where indicated, and each of the members or owners of the entity must also complete and sign separate Contractor Disclosure Form where indicated.

Instructions: Provide the following information for the entity, partner or individual completing this Disclosure (the "Individual/Entity").

A. Basic Information:
1. Name of Respondent: _____
2. Name of the authorized representative for the Respondent: _____

B. Individual/Entity Information:
Principal Office Address: _____
Telephone and Facsimile Numbers: _____
E-Mail Address: _____
Name and title of Contact Person for the Individual/Entity: _____

Is the individual/Entity authorized to transact business in the State of Georgia?

☐ Yes **(Attach Certificate of Authority to transact business in Georgia from Georgia Secretary of State.)**

☐ No

C. Questionnaire

If you answer "YES" to any of the questions below, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, the name of the court and the file or reference number of the case, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your Proposal.

1. Please describe the general development of the Respondent's business during the past ten (10) years, or such shorter period of time that the Respondent has been in business.

	YES	NO
2. Are there any lawsuits, administrative actions or litigation to which Respondent 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?	☐	☐
3. If "yes" to question number 2, were any of the parties to the suit a bonding company, insurance company, an owner, or otherwise? If so, attach a sheet listing all parties and indicate the type of company involved.	☐	☐
4. Has the Respondent been charged with a criminal offense within the last ten (10) years?	☐	☐
5. Has the Respondent received any citations or notices of violation from any government agency in connection with any of Respondent's work during the past ten (10) years (including OSHA violations)? Describe any citation or notices of violation which Respondent received.	☐	☐

6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Respondent. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:

	YES	NO
Whether Respondent, or Affiliate currently or previously associated with 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?	☐	☐
Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice?	☐	☐

	YES	NO
Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent.	☐	☐

7. Has any employee, agent or representative of Respondent who is or will be directly involved in the project, in the last ten (10) years:

	YES	NO
(a) directly or indirectly, had a business relationship with the City?	☐	☐
(b) directly or indirectly, received revenues from the City?	☐	☐
(c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City?	☐	☐
8. Whether any employee, agent, or representative of Respondent 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. Whether Respondent has provided employment or compensation to any third party intermediary, agent, or lobbyist to directly or indirectly communicate with any City official or employee, or municipal official or employee in connection with any transaction or investment involving your firm and the City?	☐	☐
10. Whether Respondent, or any agent, officer, director, or employee of your organization has solicited or made a contribution to any City official or member, or to the political party or political action committee within the previous five (5) years?	☐	☐
11. Has the Respondent or any agent, officer, director, or employee been terminated, suspended, or debarred (for cause or otherwise) from any work being performed for the City or any other Federal, State or Local Government?	☐	☐
12. Has the Respondent, member of Respondent's team or officer of any of them (with respect to any matter involving the business practice or activities of his or her employer been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?	☐	☐

13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below *[Please be advised that you may be ineligible for award of contract if you have a personal or financial relationship that constitutes a conflict of interest that cannot be avoided]*:

	YES	NO
(a) Personal relationships: executives, board members and partners in firms submitting offers must disclose familial relationships with employees, officers and elected officials of the City of Atlanta. Familial relationships shall include spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and	☐	☐

natural or adopted children of an official or employee.

(b) Financial relationships: Respondent must disclose any interest held with a City employee or official or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the

YES ☐ **NO** ☐

Respondent or the Respondent's family members. Please describe:

_____
_____
_____

D. REPRESENTATIONS

Anti-Lobbying Provision. All respondents, including agents, employees, representatives, lobbyists, attorneys and proposed partner(s), subcontractor(s) or joint venturer(s), will refrain, under penalty of the respondent's disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process.

Certification of Independent Price Determination/Non-Collusion. Collusion and other anticompetitive practices among offerors are prohibited by city, state and federal laws. All Respondents shall identify a person having authority to sign for the Respondent who shall certify, in writing, as follows:
"I certify that this bid/proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid or offer for the same supplies, labor, services, construction, materials or equipment to be furnished or professional or consultant 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. By signing this document, I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent/Offeror."

Certify Satisfaction of all Underlying Obligations. (If Applicable) If a Contract is awarded through this solicitation, then such Contractor should know that before final payment is made to a 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.

Confidentiality. Details of the proposals will not be discussed with other respondents during the selection process. Respondent should be aware, however, that all proposals and information submitted therein may become subject to public inspection following award of the contract. Each respondent should consider this possibility and, where trade secrets or other proprietary information may be involved, may choose to provide in lieu of such proprietary information, an explanation as to why such information is not provided in its proposal. However, the respondent may be required to submit such required information before further consideration.

Equal Employment Opportunity (EEO) Provision. All bidders or offerors will be required to comply with sections 2-1200 and 2-1414 of the City of Atlanta Code of Ordinances, as follows: 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:

   (1) 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;
   (2) 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;
   (3) Cancellation of the public contract;
   (4) 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.

Prohibition on Kickbacks or Gratuities/Non-Gratuity. 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 proposal 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 proposal 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.

Declaration

Under penalty of perjury, I declare that I have examined this Contractor Disclosure Form 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 consultant 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 Respondent.

For entities that are newly formed (formed within the last three years):

☐ I certify that the Respondent is newly formed and does not have sufficient information to respond to Part C of this Form.

Sign here if you are an individual:
Printed Name: _____
Signature: _____
Date: _____
Subscribed and sworn to or affirmed by _____ (name) this ___ day of _____, 20__.

_____

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: _____, 20___

Subscribed and sworn to or affirmed by _____ (name), as the _____ (title) of _____ (entity or partnership name) this _____ day of _____, 20___.

_____

Notary Public of _____(state)
My commission expires: _____

FORM 4

Proponent Financial Disclosure

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

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

1. If the Proponent is an individual, financial disclosures for that individual must be provided.

2. If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.

3. If the Proponent is a newly formed entity or partnership (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 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 entity, and financial disclosure is also required from each of the two owners (majority entity owner and minority entity owner) as well.

The Proponent (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: _____

Name of individual, entity or partnership completing this Form: _____

Relationship of individual, entity or partnership completing this Form to the Proponent: _____

Contact information of individual, entity or partnership completing this Form: _____

Address _____

Phone Number(s) _____

Email: _____

Part B: Financial Information:

1. The Proponent, 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'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'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's Financial Statements: _____

The exchange rate used: _____ = US $_____

Most recent three (3) years

	Year: 20__ (Thousands)	**Year: 20__** (Thousands)	**Year: 20__** (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 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 Affidavit 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, 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.

For entities that are newly formed (formed within the last three years):

☐ I certify that the Respondent is newly formed and does not have sufficient information to respond to Part B of this Form.

Sign here if you are an individual:

Printed Name: _____
Signature: _____
Date: _____, 20___

Subscribed and sworn to or affirmed by _____ (name) this _____ day of _____, 201____.

_____
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: _____, 20___

Subscribed and sworn to or affirmed by _____ (name), as the _____ (title) of _____ (entity name) this _____ day of _____, 201____.

_____
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-8510: Branded Coffee Concession (Concourse A) at H-JAIA.** Proponent shall comply completely and promptly with all insurance requirements contained in the Agreement attached to this Solicitation and appendices thereto, pertaining to insurance.

Proponent understands that it is expected to share these requirements with potential sureties and insurance brokers, agents, underwriters, etc. prior to any award of an 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 Agreement document from the City may result in the forfeiture of the Proposal guarantee submitted with this Proposal and/or the disqualification of Proponent from further consideration for the Agreement.

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

Dated this _____ day of _____, 201_.

Corporate Proponent: [Insert Corporate Name]	Non-Corporate Proponent: [Insert Proponent Name]
_____	_____
By:_____	By:_____
Print Name:_____	Print Name:_____
Title:_____	Title:_____
_____ Corporate Secretary/Assistant Secretary (Seal)	_____ Notary Public (Seal) My Commission Expires:_____

FORM 7

Acknowledgment of Addenda

Each Respondent must complete and submit and acknowledgement with its solicitation that it has received all Addenda issued for this solicitation. This form has been included and may be used to satisfy this requirement.

This is to acknowledge receipt of the following **Addenda** for **FC-8510: Branded Coffee Concession (Concourse A) at Hartsfield-Jackson Atlanta International Airport:**

☐ None (Check if None)

1. _____;
2. _____;
3. _____; and
4. _____.

Dated the _____ day of _____, 20___.

Corporate Proponent:
[Insert Corporate Name]

_____

By:_____

Name:_____

Title:_____

_____
Corporate Secretary/Assistant Secretary (Seal)

Non-Corporate Proponent:
[Insert Proponent Name]

_____

By:_____

Name:_____

Title:_____

_____
Notary Public (Seal)
My Commission Expires:

FORM 8

PROPONENT CONTACT DIRECTORY[2]

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

The purpose of the Proponent 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 Proponent. This Proponent 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 Proponent's team:

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

FORM 9

Referral List

Each Proponent must provide a list of at least four (4) references using the below-referenced format. The City is interested in reviewing references that are able to attest to a Proponent's performance ability and credibility in a particular industry or trade.

Reference: Name
Address
City, State, Zip
Phone
Fax

Project Title:

Contact Person: _____
Direct Telephone: _____
Email Address: _____

Date(s) of Project: _____

Description of Services:

Total Amount of Contract Including Change Orders:

Proponent's Role and Responsibilities:

Current Completion Status:

_____

(Use the Same Format to Provide the Additional References)

PART 5: CONCESSIONS LEASE AGREEMENT

CONCESSIONS LEASE AGREEMENT

BRANDED COFFEE CONCESSION - CONCOURSE A

AT THE

HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT

Atlanta, Georgia

Landlord: City of Atlanta

Concessionaire: _____

Contract No. FC-8510

CONCESSIONS LEASE AGREEMENT

This Concessions Lease Agreement ("**Agreement**") is entered into and made effective on this ___ day of _____, 20__ ("**Commencement Date**," as further defined at Section 2.1 herein), between the City of Atlanta ("**City**") and _____ ("**Concessionaire**") who agree as follows:

1. PREMISES

1.1 Description of Premises.

1.1.1 Concessionaire shall be entitled to occupy and use, for the purposes set forth herein, the following premises ("Premises" hereinafter refer to the total square feet under this Agreement on the Commencement Date) consisting of approximately 294 square feet on Concourse A Gate 28 of Hartsfield-Jackson Atlanta International Airport (the "**Airport**"), and as further depicted in **Exhibit A**, as follows:

Space	Location	Approximate Square Footage
A-F28	Concourse A Gate 28	294 sq. ft.
Total square footage:		**294 square feet**

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 the Section entitled "**Improvements**," Concessionaire must submit to City a current, more detailed description based on 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 formally 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 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 Aviation General Manager.

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 rental credits 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 2increased 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.

1.3. Concourse Closure. If 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 on that 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 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.

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 all receiving, handling and 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 this option, 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 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 the effective date of this Agreement ("**Commencement Date**").

2.2 Term. The term ("**Term**") of this Agreement shall begin on the Commencement Date and shall end on April 30, 2025 at the end of which the Agreement will immediately and automatically terminate, unless earlier cancelled or terminated in accordance with 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: (1.) the City's obligation to deliver such portion of the Premises to Concessionaire; (2.) Concessionaire's obligation to pay rent for such portion of the Premises; (3.) Concessionaire's obligation to improve such portion of the Premises; and (4.) Concessionaire's obligation to operate such portion of the Premises. These four (4) specific obligations shall all commence on the date the City makes such portion(s) of the Premises available to the Concessionaire.

2.3 Renewals. This Agreement is not subject to a renewal.

2.4 Holding Over. If Concessionaire remains in possession of the Premises after the expiration of the Term, or any renewals, 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. Such holding over will create a month-to-month tenancy at a monthly rate equal to twice the monthly rate existing during the last month of the Term or the renewal period. During such month-to-month tenancy, the terms of this Agreement and any amendments hereto will continue to govern the relationship of the Parties.

3. USE

3.1 Non-Exclusive. Concessionaire will have the exclusive rights to provide food & beverage at the Premises. However, the parties hereto agree that Concessionaire's rights hereunder are not exclusive to the Airport.

3.2 Use of Premises. Concessionaire must use the Premises to manage and operate a Branded Coffee Concession as referenced above including associated products and services, all 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. This 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 or service may not exceed the average price of those locations plus an additional ten percent (10%). 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 and services. 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, including renewals, 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 30 minutes prior to the first flight on concourse A until 30 minutes prior to the final departure on concourse A or unless otherwise specified by the Aviation General Manager. The specific hours of operation are intended to represent the minimum operating hours.

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) 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 and 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; offering passengers directions and assistance; and accepting four (4) major credit cards (Visa, MasterCard, Discover, and American Express) as payment for any debit or credit transaction. Further, the Department of Aviation ("**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 The 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 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 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. Environmentally friendly and/or innovative packaging or transportation devices that facilitate travel are highly encouraged. Concessionaire shall use compostable serviceware along with consumer facing packaging and source separate all service wastes for direct transport to off-airport composting facilities. Concessionaire is required to adhere to the Airport's sustainability policies and programs.

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. 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.

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 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, 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 basis.

3.13 Compliance with Laws and Regulations; Licenses and Permits.

3.13.1 Concessionaire must at all times during the Term and any renewal 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 not be used except for the purposes specified in the Section entitled "Use." Concessionaire may not do, or cause or permit anything to be done in or about the Premises, or bring or keep anything on the Premises:

3.14.1 increasing 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 creating a nuisance;

3.14.3 in any way obstructing or interfering with the rights of others in the Airport, or injuring or annoying them;

3.14.4 allowing any sale by auction on the Premises;

3.14.5 committing any waste upon the Premises;

3.14.6 using or allowing the Premises to be used for any improper, immoral, unlawful or objectionable purpose;

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

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

3.14.9 doing or permitting 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. Concessionaire will be billed proportionately for all costs associated with trash removal from 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 voidable at City's election.

4.2 If Concessionaire is a partnership or joint venture, a withdrawal or change (whether voluntary, involuntary or by operation of law) of the partner/joint venturer or partners/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/joint venture, or the dissolution of the partnership/joint venture, will be deemed an assignment subject to 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 percentage of the Concessionaire's Gross Receipts ("Percentage Rent") (based on the categories referenced in the Scope of Services in Exhibit A) over the first year, whichever is higher. In each subsequent year during the Term of this Agreement 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 (1/12th) 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 181st day following the Commencement Date or on the date the concession opens for business, whichever is sooner. 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. City may also request that all payments to the City be made electronically and will instruct Concessionaire accordingly.

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, including renewals, 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, including renewals, 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 (ninety) 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

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.

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) 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 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 eighty (180) 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 of three hundred and fifty dollars ($350.00) per square foot. In addition, Concessionaire is responsible for demolition necessary to accommodate all improvements. The three hundred and fifty dollar ($350.00) Minimum Investment 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 three hundred and fifty dollar ($350.00) 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 one hundred and eighty first (181st) day or the day the store opens for business, whichever is sooner, 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.

7.2.2 Base Building Improvements. Concessionaire shall pay all costs for required modifications and/or construction of certain base building conditions necessary to bring the Premises to a condition ready to receive Concessionaire Space Improvements. Improvements shall include but not be limited to the following: demolition of existing storefronts and finishes and removal of debris, construction or relocation of demising partitions, construction of servicing/delivery corridors or other support spaces, and extension or modification of building systems or other work. In locations in which construction of service corridors will be necessary

to improve operations at the Airport, the required corridors shall be constructed by the Concessionaire.

7.2.3 Minimum Reinvestment. Within thirty (30) days of the end of the fifth (5th) anniversary of the Commencement Date the Concessionaire will be required to refurbish the public areas of the Premises at a minimum cost of two hundred dollars ($200.00) per square foot within one hundred and fifty (150) days of the anniversary or within such longer time period as may be approved by the Aviation General Manager. If the City disputes the amount of reinvestment claimed by Concessionaire, the City may, at its expense, hire an independent appraiser to determine the cost of the reinvestment. If the independent appraiser determines that the reinvestment 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.

7.2.4 Liquidated Damages. Failure by Concessionaire to complete the construction in the timeframe as outlined above as required during the term and the renewal shall result in the payment of liquidated damages of One Thousand Dollars ($1,000) per day, which shall be in addition to the payment of the required Rent and which the parties acknowledge is a reasonable estimate of the damage incurred by the City for such delay. Failure by the Concessionaire to complete the construction in the timeframe as outlined above as required during the reinvestment shall result in the payment of liquidated damages of One Thousand Dollars ($1,000) per day, which shall be in addition to the payment of the required Rent and which the parties acknowledge is a reasonable estimate of the damage incurred by the City for such delay.

7.3 Construction of Concessionaire Improvements.

7.3.1 Concessionaire must, at its sole cost and expense, design, erect, construct and install all of the following ("**Concessionaire Improvements**"): fixtures, furnishings, carpeting, decorations, finishing, equipment, counters, and all other improvements for the operation of business within the Premises pursuant to this Agreement.

7.3.2 Concessionaire must perform all demolition required and construct and install all Concessionaire Improvements at its own expense and shall hire contractors that are acceptable to City. Prior to the commencement of any construction work, Concessionaire must provide to City a fixed price contract or contracts for all work to be performed within the Premises, which contract(s) shall be insured by, and Concessionaire must provide to City, a payment and performance bond in an amount equal to one hundred percent (100%) of the total contract value of such contract. Concessionaire must also comply with all other requirements of **Exhibit D**.

7.3.3 City's sole responsibility with regard to improvements within the Premises shall be to deliver the Premises to Concessionaire in the condition set forth in the Airport Design Criteria. Concessionaire may not undertake any work within or about the Premises unless City,

pursuant to the Airport Design Criteria, approves such work. Prior to the commencement of any work, Concessionaire must confirm to the Aviation General Manager in writing that: (1) Concessionaire accepts the Premises for the intended uses; and (2) the Premises are in the condition set forth in the Airport Design Criteria.

7.4 Utilities.

7.4.1 Utility Connections. The City will provide the source for certain utility connections for the concession spaces as specified in the Airport Design Criteria. Generally, electrical service will be provided to each concession's rear or side demising wall and stubbed off. Connection and distribution throughout the concession space shall be at the Concessionaire's expense. All utilities to the concession space will be separately metered.

7.4.2 Concessionaire must pay the whole cost for all utility services as invoiced to Concessionaire by the Airport or its designee and for such other special services which it may require in the Premises, and Concessionaire expressly waives the right to contest any utility rates; provided that Concessionaire will not be charged for the supply of heat, ventilation, and air conditioning for the Premises, except as may be otherwise required as referenced below.

7.4.3 Heating, Ventilation and Air Conditioning ("HVAC"). The City will provide the base system for HVAC. However, Concessionaire will be required to install separate equipment for HVAC requirements specifically related to Concessionaire's operations. In such event, Concessionaire will pay for utility usage in the concession spaces for HVAC requirements. Concessionaire will pay for all utilities without exception necessary in the operation of its business including telephone, electricity, water, sewage, gas and other fuels. All charges including but not limited to deposits and all service charges for utility services metered directly to the concession space must be paid by Concessionaire, regardless of whether such utility services are furnished by the City or other utility service corporations.

7.5 Waiver of Damages. Concessionaire expressly waives all claims for damages arising out of or resulting from failures or interruptions of utility services furnished by City including, but not limited to, electricity, water, plumbing, sewage, telephone, communications, heat, ventilation, air conditioning, or for the failure or interruption of any public or passenger conveniences.

7.6 Maintenance and Repair. Concessionaire agrees, at its own expense, to keep the Premises and all Concessionaire Improvements in good repair and in a clean, neat, safe and sanitary condition and in good order at all times. If it becomes reasonably necessary during the Term of this Agreement, as determined by the Aviation General Manager, Concessionaire will, at its own expense, redecorate and paint fixtures and the interior of the Premises and improvements, and replace fixtures, worn carpeting, curtains, blinds, drapes, or other furnishings. Additionally, Concessionaire shall pay its pro rata share of Airport Operations and Maintenance ("**O&M**") costs to be billed monthly by the City or its designee.

7.6.1 Janitorial Service. Concessionaire will provide sufficient janitorial services to ensure that the Premises is at all times maintained in a clean attractive and sanitary manner including, but not limited to, equipment, utensils, fixtures, grease traps, service counters and display units.

7.6.2 Pest Control. At any time during the Term of this Agreement, the Aviation General Manager may require Concessionaire to use the pest-exterminating contractor engaged by the Airport to implement a comprehensive, ongoing pest control program. In such case, Concessionaire shall be required to provide the City with reports indicating compliance with pest control standards, in such form as the Aviation General Manager may dictate from time to time and shall be required to maintain manifest reports on file at each store, at all times.

7.7 Advertising. Concessionaire may, at its own expense, install and operate necessary and appropriate identification signs on the Premises, subject to the approval of the Aviation General Manager as to the number, size, height, location, color and the general type and design. Such approval shall be subject to revocation by the Aviation General Manager at any time. Without express written consent of the Aviation General Manager, Concessionaire may not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials.

8. LIABILITY AND INDEMNITY

8.1 City's Liabilities. City will not be liable or responsible to Concessionaire for any loss, damage or expense that Concessionaire may sustain or incur if either the quantity or character of any services to be provided by City is changed or is no longer available or is no longer suitable for Concessionaire's requirements. City will not be liable or responsible to Concessionaire for any loss, damage or expense arising out of, resulting from, relating to or concerning, directly or indirectly, acts of terrorism, including, but not limited to, any loss, damage or expense sustained or incurred by Concessionaire as a result of:

8.1.1 a change in the Airport's or Concessionaire's business resulting from such terrorist acts;

8.1.2 the enactment of laws responding to or concerning such terrorist acts; or

8.1.3 any other detrimental effect upon Concessionaire or its business resulting from such terrorist acts.

8.2 Indemnity and Hold Harmless. Concessionaire agrees to defend, indemnify and hold harmless City, including, but not limited to, its officers, agents, officials and employees (collectively, "**Indemnified Parties**") from and against:

8.2.1 any liability for injuries to or deaths of persons or damage to property arising from Concessionaire's activities under this Agreement or in or about the Premises; and

8.2.2 any loss, expense, demand, suit or claim against the Indemnified Parties sustained or alleged to have been sustained arising out of or relating to the negligence or willful misconduct of Concessionaire or any other individual or entity under Concessionaire's control (contractual or otherwise) and their officers, agents or employees; and

8.2.3 any loss, expense, demand, suit or claim against the Indemnified Parties sustained or alleged to have been sustained arising out of or relating to any liens or charges of any kind that may at any time be established against the Premises or this Agreement, or any part of it, as a consequence of any act or omission of Concessionaire or as a consequence of the existence of Concessionaire's interest under this Agreement; and

8.2.4 any loss, expense, demand, suit or claim against the Indemnified Parties sustained or alleged to have been sustained arising out of or relating to Concessionaire's violation or alleged violation of the Section entitled "Hazardous Materials." This indemnification obligation includes, but is not limited to fines assessed against Concessionaire, City, or others for whom City may be responsible, diminution in value of the Airport, damages for the loss of use of rentable or usable space or of any amenity of the Airport, damages arising from any adverse impact on marketing of space in the Airport, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees which arise during or after the Term of this Agreement, including any renewals, as a result of such violation. This indemnification of City by Concessionaire also includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal, or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Airport which results from such a violation; and

8.2.5 any loss, claim, damage, action or suit alleging that any good and/or service sold by Concessionaire infringes upon one or more United States Patents, copyrights or trademarks owned by anyone other than Concessionaire, or violates any provision of the Lanham Act.

8.3 Indemnity Not Limited by Applicable Insurance. Concessionaire further agrees that this agreement to indemnify and hold harmless the Indemnified Parties will not be limited to the limits or terms of the liability insurance, if any, required under this Agreement.

8.4 Survival. This Section entitled "Indemnity and Hold Harmless" shall survive any cancellation, termination or expiration of this Agreement.

9. INSURANCE AND BONDING. Concessionaire must comply with all insurance and bonding requirements set forth in **Exhibit D**.

10. DAMAGE OR DESTRUCTION

10.1 Partial Destruction of the Premises.

10.1.1 Insured Damage. If the Premises is damaged by any casualty which is insurable and insured under an insurance policy of the type required to be maintained by Concessionaire pursuant to this Agreement, regardless of whether the Premises is tenantable or practically usable for the purpose for which it was formerly used, then Concessionaire must repair such damage as soon as reasonably possible and this Agreement will continue in full force and effect.

10.1.2 Uninsured Damage. If the Premises is damaged by any casualty not insurable under an insurance policy of the type required to be maintained pursuant to this Agreement, and such casualty is not caused by an act or omission of Concessionaire, its agents, servants or employees, then City's options are, either:

10.1.2.1 repair such damage as soon as reasonably possible at City's expense, in which event this Agreement will continue in full force and effect; or

10.1.2.2 give written notice to Concessionaire within thirty (30) days after the date of occurrence of such damage of City's intention to terminate this Agreement effective as of the date of the occurrence of the damage. If City elects to terminate this Agreement, Concessionaire will have the right, within ten (10) days of the date of the City's notice to notify, City in writing of Concessionaire's intention to repair such damage. If Concessionaire fails to repair the damage to City's satisfaction within a reasonable period of time, this Agreement will automatically terminate effective as of the date of the occurrence of such damage.

10.1.3 In no event shall City be required to repair any injury or damage of fire or other cause, or to make any restoration or replacement of any paneling, decorations, office fixtures, partitions, railings, ceilings, floor covering, equipment, machinery or fixtures or any other improvements or property installed in the Premises by Concessionaire or at the direct or indirect expense of Concessionaire. Concessionaire must restore or replace the same in the event of damage provided that this Agreement is not terminated pursuant to this Section.

10.1.4 If the Premises is damaged by any casualty not insurable under an insurance policy of the type required to be maintained pursuant to this Agreement, and such casualty is caused by an act or omission of Concessionaire, its agents, servants or employees, then Concessionaire must repair the damage to the City's satisfaction within a reasonable period of time, in which event this Agreement will continue in full force and effect.

10.2 Total Destruction of Premises. If the Premises is totally destroyed during the Term of this Agreement, including any renewals, from any cause whether or not covered by the insurance required under this Agreement (including any destruction required by any authorized public authority), this Agreement will automatically terminate, effective as of the date of such total destruction.

10.3 Partial Destruction of Concourse. If fifty percent (50%) or more of any concourse on which the Premises is located is damaged or destroyed by an insured risk, or if fifteen percent

(15%) or more of any concourse on which the Premises are located is damaged or destroyed by an uninsured risk, notwithstanding that the Premises may be unaffected, City may, but is not obligated to, terminate this Agreement within ninety (90) days from the date of occurrence of such damage or destruction. If the City elects to terminate this Agreement within such ninety (90) day period, it will notify Concessionaire in writing and the termination will be effective upon the date of such notice. After the Agreement is terminated, Concessionaire must surrender the Premises to City within ten (10) days.

10.4 Damage During Last Year of Term or Renewal Period. If during the last year of the Term, including any renewal term, the Premises are partially destroyed or damaged and are not covered under an insurance policy required to be maintained pursuant to this Agreement, City may terminate this Agreement, effective as of the date of occurrence of such damage, by giving written notice to Concessionaire within thirty (30) days after the date of occurrence of such damage. If City elects to terminate this Agreement, Concessionaire will have the right, within ten (10) days of the date of the City notice, to notify City in writing of Concessionaire's intention to repair such damage at Concessionaire's expense, without reimbursement from City, in which event this Agreement shall continue in full force and effect and Concessionaire must proceed to make such repairs as soon as reasonably possible.

10.5 Reduction of Rent; Concessionaire's Remedies.

10.5.1 If the Premises are partially destroyed or damaged physically and the City is obligated to repair the Premises pursuant to this Agreement, the rent attributable to such partially destroyed or damaged Premises and payable for the period during which such damage and repair continues will be reduced in proportion to the extent to which Concessionaire's use of the Premises is impaired, calculated on a square foot basis, in accordance with the discretion and determinations of the Aviation General Manager. For example, if one-half (1/2) of the Premises is unusable by Concessionaire as a result of such physical damage or destruction, then the rent payable for each month during which it exists and is being repaired will be reduced by one-half (1/2). Except for a reduction rent (if any), Concessionaire shall have no claim against the City for any damage suffered by reason of any such damage, destruction or repair.

10.5.2 If the City shall be obligated to repair the Premises under this Section and shall not commence such repair or restoration within forty-five (45) days after such obligation shall accrue, Concessionaire at Concessionaire's option may cancel and terminate this Agreement by written notice to the City at any time prior to the commencement of such repair. In such event this Agreement shall terminate as of the date of such notice.

11. Reduction in Rent Due to Changes in Enplanements.

11.1 Definitions: These definitions apply to this Section entitled "**Reduction in Rent Due to Changes in Enplanements**":

11.1.1 "Affected Concourse" means a Concourse in which Concessionaire operates Concessions under the Agreement and is limited to Concourses E and F, and the Atrium, if applicable.

11.1.2 "Atrium" means the facility at the Airport located between the North and South Terminals at which the Airport's Main Security Checkpoint is located.

11.1.3 "Enplaned Passenger" means and includes each passenger boarding an airplane from an Affected Concourse, whether such passenger has paid a fare for his/her ticket, is flying on frequent flyer miles, boards under a buddy pass, or otherwise.

11.1.4 "Year" means a three hundred and sixty-five (365) day period beginning on the effective date of the Agreement. For example, a Year under an Agreement effectively dated January 1, 2010, will be the period from January 1, 2010, through December 31, 2010, and a Year under an Agreement effectively dated August 1, 2010, will be the period from August 1, 2010, through July 31, 2011.

11.2 Reduction in Enplaned Passengers; Reduction of MAG.

11.2.1 Rules Applicable to Concessions Located in Concourses.

11.2.1.1 If the total number of Enplaned Passengers departing an Affected Concourse, as documented by the City's Department of Aviation in monthly reports received from Airlines departing flights from such Affected Concourse, for any whole month in the second or any subsequent Year during the term of the Agreement decreases by more than twenty-five percent (25%) from the same month of the previous Year, then MAG rent payments due under this Agreement will be reduced (the "Reduction") in the following manner:

11.2.1.1.1 MAG Monthly Installment: the monthly installment of the MAG due for the following month (and for that month only) will be reduced by the month over month percentage decrease in the number of Enplaned Passengers for the month experiencing the decrease; and

11.2.1.1.2 Agreement Year MAG: the Minimum Annual Guarantee for the Agreement Year in which the reduced monthly payment amount falls will also be reduced by the dollar amount by which the monthly installment of the MAG was reduced. The same test and calculation shall apply each month thereafter until the first month that the reduction in Year over Year monthly enplanements is less than twenty-five percent (25%) at which time the adjusted MAG in effect prior to the adjustment provided for herein shall be reinstated.

11.3 Calculation Examples. For example, if the number of Enplaned Passengers for the month of July 2011 declined by thirty percent (30%) over the number of Enplaned Passengers for the month of July 2010, then:

11.3.1 the MAG amount payable for the month of August 2011 will reduce by thirty percent (30%);

11.3.2 the MAG for the Agreement Year in which August 2011 falls will decrease by the dollar amount of the reduction.

11.4 Submission of Claim for Reduction; Reduction Only Available if Concessionaire is Paying MAG; Reduction Not Available if Concessionaire is Paying Percentage Rent. Claims for a Reduction may only be submitted quarterly and may only include entire monthly periods. Reduction in Enplaned Passengers for partial monthly periods will not qualify for a Reduction. If, during any month in which Enplaned Passengers are reduced, Concessionaire is required to pay percentage rent, a claim for a Reduction will not be available. A claim for a Reduction must be submitted by the last day of the month following the last month in the quarter for which a Reduction is sought. For example, if there is a reduction in the number of Enplaned Passengers for an Affected Concourse or the Airport as a whole (depending on the location of the affected Premises) beginning on August 15, 2012, and continuing through December 31, 2012, a claim for a Reduction may only be made for the months of September, October, November and December 2012, and must be submitted by January 31, 2013.

11.5 Certification of Claim for a Reduction. If Concessionaire desires to submit a claim for a Reduction, it must submit on forms developed by DOA.

12. DEFAULT BY TENANT

12.1 Events of Default. Concessionaire will be in default under this Agreement if:

12.1.1 Concessionaire fails to pay rent or any other payment required under this Agreement when due to City, and that failure continues for a period of thirty (30) days after such rent or other payment is due whether or not the City has invoiced or provided Concessionaire with notice of any amount due or overdue; or

12.1.2 Concessionaire does any of the following:

12.1.2.1 becomes insolvent, or seeks the benefit of any present or future insolvency statute.

12.1.2.2 makes a general assignment for the benefit of creditors.

12.1.2.3 files a voluntary petition in bankruptcy.

12.1.2.4 files a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any other State.

12.1.2.5 consents to the appointment of a receiver, trustee, or liquidator of any of its property.

12.1.2.6 files a petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, is involuntarily filed against Concessionaire and not dismissed within sixty (60) days after the filing.

12.1.2.7 transfers its interest under this Agreement, without the prior written approval of City, by reason of death, operation of law, assignment, sublease agreement or otherwise, to any other person, firm or corporation.

12.1.2.8 abandons, deserts or vacates the Premises, including, but not limited to, ceasing to provide its services at the Premises for thirty (30) days or more.

12.1.2.9 files any lien against the Premises because of any act or omission of Concessionaire, and is not discharged by Concessionaire by payment, bond or otherwise within twenty (20) days after receipt of notice of the lien by Concessionaire.

12.1.2.10 fails to comply with the requirements set forth in **Exhibit D**; Insurance and Bonding Requirements.

12.1.2.11 fails to keep, perform or observe any term, covenant or condition of this Agreement.

12.1.2.12 uses or gives its permission to any person to use any portion of Premises for any illegal purpose or purpose in violation of this Agreement.

12.1.2.13 (including any venture partner of Concessionaire), or any of their respective officers, directors, principal shareholder(s) or affiliates, is convicted of or pleads guilty to any crime in any way related to the operation of the Premises or the Airport or a public sector, governmental or quasi-governmental project or contract or related to the safety and/or security of any Airport, governmental entity or its citizens. For purposes of this Agreement:

12.1.2.13.1 "Principal Shareholder" means an owner of shares (or equity interest, if other than a corporation) representing 10% of the voting control and/or participation (through dividends or other distributions) in the profits of an entity.

12.1.2.13.2 "Affiliate" means any person or entity which directly or indirectly controls or is controlled by, or is under common control with an entity.

12.1.2.13.3 "Control" or "Controlling" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity whether through the ownership of voting securities, by contract or otherwise.

12.1.2.14 intentionally or willfully misrepresents to City any material fact.

12.1.2.15 made any material misrepresentation or failed to make full and accurate disclosure to City in the documents, questionnaires and other materials submitted by Concessionaire with its Proposal pursuant to which this Agreement was awarded to Concessionaire, or failed to comply with all requirements, including without limitation, the ethical standards policy, set forth in the RFP.

12.1.2.16 acts or fails to act results in the suspension or revocation of, for a period of more than thirty (30) days, of any rights, powers, licenses, permits or authorities necessary for the operation of its business at the Premises.

12.1.2.17 fails to pay any lawful tax or assessments required to be paid under this Agreement.

12.2 City's Remedies. If Concessionaire is in default, City will notify Concessionaire in writing of the nature of the default. If Concessionaire, where a specific time period for the cure is provided in the applicable subsection of this Agreement, does not cure the default within that period or, where a time period for the cure is not specifically provided in the applicable subsection, does not cure the default within seven (7) days from receipt of notice from City, City may, without notice to Concessionaire's sureties, if any, elect to exercise any of the following remedies:

12.2.1 Allow this Agreement to continue in full force and effect and to enforce all of City's rights and remedies under it, including, without limitation, the right to assess fines and the right to collect rent as it becomes due together with interest at the rate of one and one half percent (1.5%) per month.

12.2.2 Continue this Agreement in full force and effect and enter the Premises and relet all or any portion of it to other parties for Concessionaire's account. Concessionaire must pay to City on demand all costs City incurs in entering the Premises and reletting it, including, without limitation, brokers' commissions, and expenses for repairs and remodeling, attorneys' fees and all other actual costs. Reletting may be for a period shorter or longer than the remaining Term. During the term of any reletting, Concessionaire must pay to City the rent due under this Agreement on the date due, less any net rents City receives from any reletting.

12.2.3 Terminate Concessionaire's rights under this Agreement at any time and recover from Concessionaire all costs, expenses, losses and damages recoverable under this Agreement or applicable law as a result of Concessionaire's default and the termination.

12.2.4 Cure any default at Concessionaire's cost. If City at any time, by reason of Concessionaire's default, pays any sum to cure any default, the sum paid by City shall be immediately due from Concessionaire to City on demand, and shall bear interest at the rate of

one and one-half percent (1.5%) per month from the date paid by City until the date City is fully reimbursed by Concessionaire.

12.2.5 Exercise any and all other rights or remedies available under this Agreement or at law or in equity.

12.3 Concessionaire Not in Default. If, after termination for default, it is determined for any reason that Concessionaire was not in default, the rights and obligations of the parties will be the same as if the Agreement had been terminated pursuant to the Section entitled "**Termination for Convenience**."

12.4 Security Interest.

12.4.1 In addition to the statutory landlord's lien, Concessionaire grants to City a valid security interest in all goods, wares, equipment, fixtures, furniture, improvements and other personal property located now or in the future within the Premises, including the proceeds of such items, to secure payment of all rentals and other sums of money becoming due from Concessionaire under this Agreement, and to secure payment of any damages or losses that City may suffer by reason of the breach by Concessionaire of this Agreement. Concessionaire may not remove such goods, wares, equipment, fixtures, furniture, improvements and other personal property located now or in the future within the Premises from the Premises without the written consent of City until all arrearages in rent, as well as any other sums of money then due to City under this Agreement, have been paid and discharged and all the covenants, agreements and conditions of this Agreement have been fully complied with and performed by Concessionaire.

12.4.2 Upon the occurrence of an event of default by Concessionaire, City may, in addition to any other remedies provided in this Agreement, enter upon the Premises and take possession of any goods, wares, equipment, fixtures, furniture, improvements and other personal property of Concessionaire situated on the Premises, without liability for trespass or conversion, and sell them at public or private sale, with or without having such property at the sale, after giving Concessionaire reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, at which sale City or its assigns my purchase the property unless otherwise prohibited by law. The requirement of reasonable notice to Concessionaire will be met if such notice is given in the manner prescribed in the Section entitled "Notices", at least five (5) days before the date of the sale.

12.4.3 The proceeds from any such sale, less any expenses of the City connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and other expenses), will be applied as a credit against the debts payable by Concessionaire, or as otherwise required by law; and Concessionaire will pay any deficiencies immediately.

12.4.4 Upon request by City, Concessionaire agrees to execute and deliver to City a financing statement in a form sufficient to perfect the security interest of City in the property and the proceeds under the provisions of the Uniform Commercial Code in force in the State of Georgia. By accepting a grant of the security interest set forth herein, the parties agree that the City is not waiving its rights under any statutory lien for the payment of rent granted under this Agreement or applicable law.

13. TERMINATION

13.1 Termination by City for Cause. City may at its option, by giving written notice to Concessionaire, terminate this Agreement:

13.1.1 for a material breach of the Agreement by Concessionaire that is not cured by Concessionaire within seven (7) days of the date on which City provides written notice of such breach;

13.1.2 Immediately for a material breach of the Agreement by Concessionaire that is not reasonably curable within seven (7) days;

13.1.3 Immediately upon written notice for numerous breaches of the Agreement by Concessionaire that collectively constitute a material breach or reasonable grounds for insecurity concerning Concessionaire's performance; or

13.1.4 Immediately for engaging in behavior that is dishonest, fraudulent or constitutes a conflict of interest with Concessionaire's obligations under this Agreement or is in violation of any City Ethics Ordinances.

13.2 Re-procurement Costs. In addition to all other rights and remedies City may have, if this Agreement is terminated by City pursuant to the above subsection entitled "**Termination by City for Cause**," Concessionaire will be liable for all costs in excess of the Charges for all terminated Services reasonably and necessarily incurred by City in the completion of the Services, including the cost of administration of any agreement awarded to other Persons for completion. If City improperly terminates this Agreement for cause, the termination for cause will be considered a termination for convenience in accordance with the provisions of the Section entitled "**Termination by City for Convenience**."

13.3 Termination by City for Insolvency. City may terminate this Agreement immediately by delivering written notice of such termination to Concessionaire if Concessionaire: (a) becomes insolvent, as that term may be defined under Applicable Law, or is unable to meet its debts as they mature; (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors; (c) is adjudicated bankrupt or makes an assignment for the benefit of its creditors generally; (d) fails to deny or contest the material allegations of an involuntary petition filed against it pursuant to any Applicable Law relating to bankruptcy, arrangement or reorganization, which is not dismissed within sixty (60) days; or (e) applies for or consents to the appointment of any receiver for all or any portion of its property.

13.4 Termination by City for Convenience.

13.4.1 The City shall have the right to terminate the Agreement without cause at any time during the Term by giving written notice to Concessionaire at least 30 days prior to the date such termination is to be effective. Should the City terminate the Agreement prior to its expiration, the City shall reimburse the Concessionaire for the reasonable and proper unamortized costs of the capital Improvements, made by or at the cost of the Concessionaire, and approved in writing by the Aviation General Manager. Concessionaire must document the costs of any and all capital Improvements in a form and detail satisfactory to the Aviation General Manager and submit same within thirty (30) calendar days following completion of the work for review and approval, for the purpose of establishing the unamortized costs of the Improvements. The capital costs of the Improvements shall be amortized based upon a straight-line depreciation schedule over the initial Term of the Agreement, with zero salvage value.

13.4.2 Reimbursement for unamortized costs of capital improvements shall be the Concessionaire's sole remedy in the event of Termination by City for Convenience. Concessionaire hereby waives any claims for damages, including loss of anticipated profits, in the event that the City terminates the Agreement for convenience.

13.5 Termination for Lack of Appropriations. If, during the Term of this Agreement, legislation establishing a Maximum Payment Amount for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the term for which a Maximum Payment Amount has been legislatively authorized.

13.6 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, Concessionaire shall immediately: (i) discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Concessionaire or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

14. FINES FOR VIOLATIONS

14.1 If Concessionaire defaults under or violates material provisions of this Agreement, in lieu of, or in addition to, any other available remedy, the Aviation General Manager may elect to impose the charges described below on a per diem basis per infraction, as follows:

14.1.1 Violation of Premises Use;

14.1.2 Failure to maintain required hours of operation;

14.1.3 Failure to submit required documents and reports;

14.1.4 Failure to remedy Customer Service, Cleanliness, Quality Assurance, Operations, and/or Facility standard;

14.1.5 Infractions within 48 hrs. notice (as measured from the date of each written notification);

14.1.6 Failure to provide pest control records on a monthly basis and/or display manifest reports on file in each store;

14.1.7 Unauthorized Advertising Signage (defined as written, printed blade or storefront); or

14.1.8 Destruction of Airport public facility deemed caused by associates or associate travel in unauthorized areas;

14.1.9 Failure to comply with any and all published DOA, basic terms of the Agreement, federal, state, local policies, regulations, the Code, directives or standards.

First offense of any infraction listed above may result in a charge of $500, second offence may result in a charge of $750, and third offense may result in charge of $1,000. Repeated violation of the above-listed infractions may result in the Concessionaire being in default of the Agreement.

15. UNAUTHORIZED ACCESS. Concessionaire is responsible for preventing unauthorized persons from gaining access to restricted areas of the Airport or any other part of the Airport through the Premises or any door under Concessionaire's control. If federal security regulations are violated as a result of trespass by unauthorized persons into restricted areas of the Airport or any other part of the Airport through the Premises or any door under Concessionaire's control, or if such door is left unsecured in violation of federal security regulations, and City is subjected to any liability, including, but not limited to, a fine(s) by the Transportation Security Administration, Concessionaire must reimburse City for the full amount of such fines promptly upon receipt of an invoice from City and pay for any liability assessed against City as a result of such unauthorized access.

16. SURRENDER OF PREMISES

16.1 Concessionaire must yield and deliver peaceably to City possession of the Premises and all Concessionaire improvements in good condition, reasonable wear and tear accepted, upon the expiration or earlier termination of this Agreement.

16.2 Concessionaire must remove Concessionaire's signs and trade fixtures from the Premises and must surrender the Premises in clean, orderly and presentable condition. City will retain Concessionaire's Performance and Payment Bond(s) or other securities required under **Exhibit D** until such time as all conditions of this Agreement have been satisfied, all keys to the Premises are delivered to the Aviation General Manager by Concessionaire, the Aviation General Manager determines that the Premises are clean and in good repair and the applicable period for filing liens or other claims has passed. Concessionaire will be liable to City for City's costs for storing, removing and disposing of any alterations or Concessionaire's personal property, and of restoration of the Premises.

17. OWNERSHIP OF INFORMATION; CONFIDENTIALITY

17.1 All reports, information, data or other documents given to, prepared by or assembled by Concessionaire arising out of the work performed under this Agreement are the exclusive property of City – with the exception of employee data covered under the Privacy Act – and will be kept confidential and may not be made available to any individual or organization by Concessionaire without the prior written approval of City, provided however that these provisions shall not apply to data that is in the public domain; was previously known to Concessionaire; or was independently acquired by Concessionaire from third parties who are under no obligation to City to keep said data and information confidential. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of Concessionaire, nor shall they be interpreted in any way to restrict Concessionaire from complying with a legally enforceable court order to provide information or data; provided, however, Concessionaire shall immediately place City on notice of such court order to permit City the opportunity to determine whether a protective order shall be filed. This restriction includes, but is not limited to, press releases, presentations, promotional materials and other public disclosures.

17.1.1 Except as provided in the preceding paragraph, Concessionaire shall keep confidential, and shall require its employees, agents, subordinates, subcontractors, or sublessees to keep confidential all information disclosed by City or its consultants to Concessionaire or developed by Concessionaire or Concessionaire's employees, agents, subordinates, subcontractors, or sublessees in the performance of services hereunder. Disclosure of any such information shall constitute a material breach of this Agreement and shall entitle City to recover from Concessionaire any damages City incurs because of such breach.

17.1.2 City shall have the right to any specifications, computer programs, technical reports, operating manuals and similar work product developed and paid for under this Agreement. If research or development is furnished in connection with the performance of this Agreement and if in the course of such research or development patentable subject matter is produced by Concessionaire, its officers, agents, employees, subcontractors, or sublessees, City shall have, without cost or expense to it, an irrevocable, nonexclusive royalty-free license to make, have made and use, either itself or by anyone on its behalf, such subject matter in connection with any activity now or hereafter engaged in or permitted by City. Promptly upon request by City, Concessionaire shall furnish or obtain from the appropriate person a form of license satisfactory to City, but it is expressly understood and agreed that, as between City and Concessionaire the license herein provided for shall nevertheless arise for the benefit of City immediately upon the production of said subject matter, and shall not await formal exemplification in a written license agreement as provided for above. Such license agreement may be transferred by City to its successors immediate, or otherwise, in the operation or ownership of any real or personal property now or hereafter owned or operated by City, but such license shall not be otherwise transferable.

17.1.3 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.]."

18. HAZARDOUS MATERIALS

18.1 Concessionaire shall not cause or permit any Hazardous Material to be brought, kept or used in or about the Premises or the Airport by Concessionaire, its agents, employees, contractors, or invitees. Without limiting the foregoing, if the presence of any Hazardous Material in the Airport caused or permitted by Concessionaire results in any contamination of the Airport, Concessionaire shall promptly take all actions at its sole expense as are necessary to return the Airport to the conditions existing prior to the introduction of such Hazardous Material to the Airport; provided that City's approval of such actions, and the contractors to be used by Concessionaire in connection therewith, shall first be obtained.

18.2 The term "Hazardous Material" means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local governmental authority or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" or similar term under any laws now or hereafter enacted by the United States or the State of Georgia or any political subdivision thereof, or (ii) designated a "hazardous substance" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317, or (iii) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C.§ 6901 et seq., or (iv) defined as a "hazardous substance" pursuant to

the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.

18.3 In addition to, and independent of any other right of entry provided herein, City and its employees, representatives and agents shall have access to the Premises during reasonable hours and upon reasonable notice to Concessionaire in order to conduct periodic environmental inspections and tests of Hazardous Material contamination in the Premises.

19. AIRPORT SECURITY REQUIREMENTS. Concessionaire shall comply, at its own expense, with the TSA and the City's security requirements for the Airport including, but not limited to employee training and badging. Concessionaire shall cooperate with the TSA and the City on all security matters and shall promptly comply with any project security arrangements established by City. Compliance with such security requirements shall not relieve Concessionaire of its responsibility for maintaining proper security for the above-noted items, nor shall it be construed as limiting in any manner Concessionaire's obligation with respect to all applicable federal, state and local laws and regulations and its duty to undertake reasonable action to establish and maintain secure conditions at and around the Premises and throughout the Airport. Additional airport security information is available on the Airport Security's web site: (www.atlanta-airport/business/security). See also **Exhibit F**, attached hereto and incorporated herein.

20. CITY POLICIES; Airport Concessions Disadvantaged Business Enterprise (ACDBE) BUSINESS PARTICIPATION AND NON-DISCRIMINATION PROVISIONS.

20.1 City's Required Policies. Concessionaire acknowledges that Concessionaire has reviewed, is familiar with and agrees to comply with:

20.1.1 City's Airport Concessions Disadvantaged Business Enterprise Policy (See **Appendix A**); as the same may be amended from time to time by the City, Georgia Department of Transportation or US Department of transportation ("**USDOT**").

20.1.1.1 In addition to its compliance with the ACDBE Policy as the same may be amended from time to time by the City, Georgia Department of Transportation or U.S. Department of Transportation, Concessionaire shall work in good faith the City's Office of Contract Compliance ("**OCC**") (or any other federal, state or local governmental or quasi-governmental agency) to maximize opportunities in the utilization of certified ACDBE firms during the construction build-out of the concessions space(s), as well as any on-going supply opportunities. Any submittals provided by Concessionaire to the OCC prior or subsequent to the execution of this Agreement related to the utilization of such firms shall be incorporated herein by this reference. A copy of the current OCC requirements are attached hereto as **Appendix A** and incorporated herein by this reference.

20.1.2 City's equal employment opportunity policy (See Code Sections 2-1200 and 2-1414; **Appendix A**), as follows:

Equal Employment Opportunity (EEO) Provision. During the performance of the Agreement, Concessionaire agrees as follows:

(a) The Concessionaire 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 Concessionaire 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 Concessionaire shall, in all solicitations or advertisements for employees, placed by or on behalf of the Concessionaire, 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 Concessionaire shall send to each labor union or representative of workers with which the Concessionaire may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Concessionaire's commitments under the equal employment opportunity program of the City of Atlanta and under the Code and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Concessionaire 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 Concessionaire shall furnish all information and reports required by the contract compliance officer pursuant to the Code, and shall permit access to the books, records, and accounts of the Concessionaire during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.

(e) The Concessionaire shall take such action with respect to any sub-Concessionaire 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 Concessionaire 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 Concessionaire or the city may request the United States to enter into such litigation to protect the interests of the United States.

(f) The Concessionaire and its sub-Concessionaires, 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 Concessionaire and its sub-Concessionaires.

(g) The Concessionaire 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 sub-Concessionaire or vendor.

(h) A finding, as hereinafter provided, that a refusal by the Concessionaire or sub-Concessionaire 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:

(1) Withholding from the Concessionaire in violation all future payments under the involved contract until it is determined that the Concessionaire or sub-Concessionaire is in compliance with the provisions of the contract;

(2) 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 Concessionaire or sub-Concessionaire demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code;

(3) Cancellation of the public contract;

(4) 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 Concessionaires, sub-Concessionaires or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

20.1.3 City's business non-discrimination policy (See Code Sections 2-1358 and 2-1387; **Appendix A**).

20.1.4 City's Atlanta Workforce Agency/First Source Jobs Policy and Agreement (See Code Section 2-1655; **Appendix A**).

20.1.5 City's ethics in public contracting policy (See Code Sections 2-1481 through 2-1490);

20.1.6 City's conflicts of interest policy (See Code Section 2-1482);

20.1.7 City's prohibition against predatory lending (See Code Section 2-1213), as follows:

Prohibition against Contracting with Predatory or High Cost Lenders. By signing below, the Contractor, or its authorized agent, certifies, under penalty of perjury, that this Agreement is made by a person or business entity that is neither a predatory lender nor a high cost lender, nor is the Contractor an affiliate of a predatory lender or a high cost lender, as defined by Code Section 58-102. The undersigned Contractor, or authorized agent, further certifies that he/she is an agent duly authorized to sign this certification on behalf of the Contractor.

20.1.8 City's Green Initiatives (Atlanta Sustainable Building Ordinance (ASBO)).

20.1.9 City's prohibition against kickbacks or gratuities (See Code Section 2-1484), as follows:

Prohibition against Kickbacks or Gratuities. Concessionaire 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 proposal 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 proposal 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.

20.1.10 City's prohibition against and reporting of anti-competitive practices (See Code Section 2-1210, as follows:

The Concessionaire certifies and warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Concessionaire, to solicit or secure this Agreement; and that the Concessionaire has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for the Concessionaire, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the above warranty, and upon a finding after notice and hearing, the City shall have the right to terminate the Agreement without liability, and, at its discretion, to deduct from the Agreement, or otherwise recover the full amount of, such fee, commission, percentage, gift or consideration.

20.2 Non-discrimination Certificates. By the execution of this Agreement, Concessionaire certifies as follows:

The Concessionaire or the Services covered by this Agreement will not discriminate in any way in connection with this Agreement against any employee or applicant for employment because of race, color, religion, sex, national original or physical handicap, and Concessionaire will take affirmative action to ensure that applicants are employed, and those employees are treated during employment without regard to their race, color, religion, sex, national origin or physical handicap. Concessionaire shall state in all advertisements and solicitations that it is an equal employment opportunity employer.

20.3 USDOT Non-discrimination Ordinance. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, religion, sex, national origin, or physical handicap in connection with the award or performance of any agreement covered by 49 CFR part 23. Concessionaire agrees to include the above statements in any subcontract or subsequent agreement that it enters into and cause those businesses to similarly include the statements in subsequent agreements.

20.4 Public Use and Federal Grants.

20.4.1 To the best of Concessionaire's knowledge, the Premises is subject to the terms of those certain sponsor's assurances made to guarantee the public use of the Airport as incidental to grant agreements between City of Atlanta and the United States of America, as amended. City and Concessionaire represent that none of the provisions of this Agreement violates any of the provisions of the Sponsor's Assurance Agreement.

20.4.2 The parties hereto further covenant and agree that nothing contained in this Agreement shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

20.4.3 Concessionaire for itself, its sub-Concessionaires, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the construction of any improvements on, over, or under the Premises and the furnishings of services thereon, no person on the grounds of race, color, or national original shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) Concessionaire shall use the Premises in compliance with all other requirements imposed by or pursuant to the Code of Federal Regulations for the Department of Transportation at Title 49, Subtitle A, Office of the Secretary of Transportation, Part 21, titled "Nondiscrimination in Federally Assisted Programs of the Department of Transportation — Effectuation of Title VI of the Civil Rights Act of 1964," and as said regulations may be amended; and (4) in the event of Concessionaire's breach of any of the above nondiscrimination covenants, City shall have the right to terminate this Agreement therefore, and hold the same as if this Agreement had never been made or issued. Provision (4) shall not be effective until the procedures of 49 CFR Subtitle A, Part 21, are followed and completed, including the exercise or expiration of appeal rights.

21. MISCELLANEOUS PROVISIONS

21.1 Award and Execution of Agreement. The award and execution of this Agreement by City is authorized by Resolution No. _____, adopted by City's Council on _____, 2014, and approved by City's Mayor on _____, 2014, a copy of which is attached to this Agreement as **Exhibit B**. This Agreement will not become binding on City and City will incur no liability hereunder until it has been duly executed by Concessionaire, returned to City with all required submittals, including insurance and bonding, executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney, or his or her designee, as to form and delivered to Concessionaire.

21.2 Identity of Owner and Manager. The City is the owner of record of the property of which the Premises is a part. The person authorized to manage the property, which includes the Premises, is the Aviation General Manager of the Department of Aviation.

21.3 Delegation of Authority. Any act(s), whether discretionary or ministerial, that the Aviation General Manager is authorized or required to perform under this Agreement may be performed by such person(s) as the Aviation General Manager shall designate in writing to perform such act(s).

21.4 No Partnership or Joint Venture. City and Concessionaire are not and shall not be deemed to be, for any purpose, partners or joint venturers with each other.

21.5 Independent Concessionaire; No Contractual Relationship. Concessionaire will perform under this Agreement as an independent entity and not as an agent or employee of City. No contractual relationship between City and any sub-Concessionaire or sub-consultant is created by an approval of City for use under this Agreement.

21.6 Usufruct. The rights of Concessionaire hereunder constitute a usufruct, which is not subject to levy or sale. No estate shall pass out of City.

21.7 Recording Prohibited. Neither City nor Concessionaire shall be entitled to record this Agreement, any memorandum or short form of this Agreement or any affidavit with respect to this Agreement.

21.8 Attorneys' Fees. If City should bring any action under this Agreement or consult or place this Agreement, or any amount payable to Concessionaire pursuant to this Agreement, with an attorney concerning or for enforcement of any of City's rights hereunder, then Concessionaire agrees in each and any such case to pay to City all costs, including, but not limited to, court costs and reasonable attorneys' fees, incurred by City in connection therewith.

21.9 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall become invalid or unenforceable to any extent, such provision shall be struck and severed and the remainder of this Agreement shall not be affected and shall continue to be enforceable to the greatest extent of the law. Each covenant and agreement contained in this Agreement shall be construed to be a separate and independent covenant and agreement and the breach of any such covenant or agreement by City shall not discharge or relieve Concessionaire from Concessionaire's obligation to perform each and every covenant and agreement of this Agreement to be performed by Concessionaire.

21.10 Gender; Singularity. Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

21.11 Exhibits and Attachments. All exhibits, appendices, attachments, riders and addenda referred to in this Agreement are incorporated into this Agreement and made a part hereof for all intents and purposes, including the following:

21.11.1 Exhibit A – Scope of Services

21.11.2 **Exhibit A.1** – Financial Offer Form
21.11.3 **Exhibit A.2** – Map of Premises
21.11.4 **Exhibit A.3** - Historical Enplanements & Revenues
21.11.5 **Exhibit B** – City Council Resolution
21.11.6 **Exhibit C** – Definitions
21.11.7 **Exhibit D** – Insurance and Bonding Requirements
21.11.8 **Exhibit D.1** – Performance & Payment Bonds
21.11.9 **Exhibit D.2** – Construction Safety & Health Plan (Non-OCIP)
21.11.10 **Exhibit E** – Dispute Resolutions Procedures
21.11.11 **Exhibit F** – Airport Access, Security and Safety Measures
21.11.12 **Appendix A** – Office of Contract Compliance Requirements
21.11.13 **Appendix B** – [RESERVED]
21.11.14 **Appendix C** – Illegal Immigration Reform and Enforcement Act Affidavits

21.12 Time of the Essence. Time is of the essence with regard to each provision of this Agreement.

21.13 Evidence of Authority. If Concessionaire is other than a natural person, Concessionaire shall deliver to City such legal documentation as City may request to evidence the authority of those signing this Agreement to bind Concessionaire.

21.14 Drug-Free Workplace Policy. Concessionaire acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on any City property, including, but not limited to, the Premises.

21.15 Applicability of Code Provisions. All terms of this Agreement shall be governed by and shall be subject to all the provisions of the Code of Ordinances of City of Atlanta, Georgia, now and as may be amended from time to time.

21.16 Successors and Assigns. Each and all of the conditions and covenants of this Agreement shall extend to and bind and inure to the benefit of City and Concessionaire, and the legal representatives, successors and assigns of either or both of them.

21.17 Notices. All notices required to be given to City hereunder shall be in writing and given by postage prepaid registered or certified mail, return receipt requested, addressed as follows:

Charles Ewing
Concessions Director
Department of Aviation
Hartsfield-Jackson Atlanta International Airport
P.O. Box 20509
Atlanta, Georgia 30320
Office: 404-382-2217

Facsimile: 404-684-8932
E-mail: chilly.ewing@atlanta-airport.com

Notices hereunder may be transmitted by e-mail or other electronic delivery with confirmation of transmission, delivery and receipt.

All notices required to be given to Concessionaire hereunder shall be sent to the following address:

_____
_____
_____
_____

21.18 Interpretation. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either City or Concessionaire. This Agreement shall be construed and performed according to the laws of the State of Georgia. In the event of a dispute with regard to interpretation of any provision of this Agreement, the parties agree to bring suit and be subject to the jurisdiction of the Fulton County Superior Court.

21.19 Section Headings. The section headings contained herein are for the convenience of City and Concessionaire and are not to be used to construe the intent of this Agreement or any part thereof, nor to modify, amplify, or aid in the interpretation or construction of any of the provisions thereof.

21.20 Reference to Clause or Section Entitled "____." When reference in this Agreement is made to a specific clause with a specific title set forth in a section heading or section number, such reference will include all sections and subsections of such clause.

21.21 Integrated Agreement, Modification. This Agreement contains all the agreements of the parties and cannot be further amended or modified except by written agreement. If the parties hereto previously have entered into or do enter into any other lease, license, permit or agreement covering Premises or facilities at the Airport, this Agreement and the terms, conditions, provisions and covenants hereof shall apply only to the Premises herein particularly described, and this Agreement or any of the terms, conditions, provisions or covenants hereof shall not in any way or in any respect change, amend, modify, alter, enlarge, impair or prejudice any of the rights, privileges, duties or obligations of either of the parties hereto under or by reason of any other said lease, permit, license or other agreement between said parties.

21.22 Force Majeure. Neither party shall be deemed to be in breach of this Agreement by reason of a failure to perform any of its obligations hereunder to the extent that such failure is caused by strike or labor troubles, unavailability of materials or utilities, riots, rebellion, terrorist attack, insurrection, invasion, war, action or interference of governmental authorities, acts of God, or any other cause whether similar or dissimilar to the foregoing which is reasonably beyond the control of the parties (collectively "Force Majeure Event"). If either

party claims the occurrence of a Force Majeure Event, such party must promptly give notice to the other of the existence of such Force Majeure Event, the nature and extent thereof, the obligation hereunder affected thereby and the actions to be taken to abate or terminate such event. Notwithstanding the existence of any Force Majeure Event, this Clause shall not apply to and Concessionaire shall not be relieved of its obligation to pay rent or other sums due hereunder, such obligation being absolute and unconditional.

CONCESSIONAIRE:

_____

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____
Title: Secretary/Assistant Secretary (SEAL)

CITY:

_____
Mayor

ATTEST:

_____
Municipal Clerk (SEAL)

APPROVED:

_____
Chief Procurement Officer

APPROVED:

_____
Aviation General Manager

APPROVED AS TO FORM:

_____
Senior Assistant City Attorney

EXHIBIT A: SCOPE OF SERVICES

EXHIBIT A: SCOPE OF SERVICES

FC-8510: BRANDED COFFEE CONCESSION (CONCOURSE A) AT HJAIA

1. PROJECT DESCRIPTION

Scope:
The construction, maintenance and operation of one (1) National or Regional Branded Coffee Concession location totaling approximately 294 square feet on concourse A, gate 28 (A-F28) at the Hartsfield-Jackson Atlanta International Airport.

Location:
Concessionaire must design, construct, operate, maintain and manage one (1) Branded Coffee Concession location (individually and collectively referred to herein as the "Premises") at Concourse A near Gate 28 (A-F28) at the Hartsfield Jackson Atlanta International Airport on a non-exclusive basis. The total square footage is approximately 294 square feet.

Space No.	Location	Approximate Size
A-F28	Concourse A Gate 28	**294**

2. Permitted Uses Generally:

The Concessionaire must operate and manage this location providing merchandise and or products on a non-exclusive basis. All items sold must meet Federal Aviation Administration (FAA) security regulations. Other than the items listed, no other product, merchandise or service shall be sold or offered by the Concessionaire without the written consent of the Aviation General Manager. In the event any question or dispute arises as to the sale of any specific item or category of items on the premises, the Concessionaire may submit a request in writing to the Aviation General Manager asking that the matter be reviewed. The Aviation General Manager shall give a decision in writing and such determination is the final authority in the matter. The Concessionaire shall abide by and conform to the decision of the General Manager.

The Aviation General Manager shall have the right, at his sole discretion, at any time prior to or during the term of the Lease, to expand, reduce or otherwise modify the products or merchandise offerings.

The menu must include freshly prepared ingredients, covering breakfast such as bagels and pastries while also offering a selection of healthy alternatives, such as fruit cups and salads.

The Concessionaire and its sub-concessionaire(s) must clean and maintain the "Premises" so as to provide an environment that is "opening day fresh" in appearance at all times.

Speed of service will be critical in this location. Efficient use of space and the flow of traffic and queuing should be considered for this high volume location.

3. Specific Uses:

Concept: Branded Coffee Concession
Space No.: A-F28
Location: Concourse A Gate 28
Approximate Size: 294 square feet

Non-Permitted Menu Items

- Candy and chewing gum
- Any and all sales from vending machines or other mechanical devices, including but not limited to: cigarettes, candy, maps, coffee, newspapers, stamps, phone cards, insurance policies, and dispensation of cash, money orders, and checks
- Popcorn
- Alcoholic beverages

4. Construction Schedule and Deadlines

Concessionaire must provide a detailed timeline for the construction of this food and beverage location as well as a description of the transition plan. The design of all Concessionaire improvements must be made and installed within one hundred and eighty (180) days of the Commencement Date.

4.1 Approval of Conceptual Design:

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 a detailed layout of the overall equipment. Approval by City will extend to and include architectural and aesthetic matters and the City reserves the right to reject any designs submitted and to require Concessionaire to resubmit designs and equipment proposals until they meet City's approval.

4.2 Airport Infrastructure Upgrades

The Airport's infrastructure requires that additional equipment may be needed during construction of the Leased Premises to satisfy current codes, ordinances or airport construction requirements. This equipment could include a 1,500 gallon grease interceptor, electrical grounding plates and/or stainless steel waste lines. If it is determined that this equipment is required for the concession space being developed, concessionaire must, at its sole initial cost, design, construct and install these improvements. The City agrees to reimburse Concessionaire for base building improvements to include a 1,500 gallon in-ground grease interceptor, electrical

grounding plates and stainless steel upgrade of waste lines from cast iron material, if required. All requests for reimbursement must be (1) approved by the Airport's Department of Aviation Planning and Development and (2) submitted with supporting documentation (including proof of payment), at the completion of the project. Concessionaire will be responsible for the maintenance and repair of this equipment and shall maintain all records thereto, throughout the Term of the Lease Agreement.

EXHIBIT A.1: FINANCIAL OFFER FORM

EXHIBIT A.1

FINANCIAL OFFER FORM

FC-8510: Branded Coffee Concession – Concourse A at Hartsfield-Jackson Atlanta International Airport

The undersigned having (a) examined carefully the accompanying Instructions to Proponents ("Instructions"), and the form of the Concessions Lease Agreement ("Agreement") at Hartsfield-Jackson Atlanta International Airport ("Airport"), (b) visited the Airport, (c) become familiar with all terms and conditions specified in the Instructions and the Agreement and with the proposed operation of the Branded Coffee Concession – Concourse A Location, hereby submits this Financial Offer Form for compensation and privilege of performing the Services required and allowed under the Agreement at the Airport to be paid to the City by the undersigned in consideration of the execution of said Agreement by the City and the performance of all terms and conditions therein agreed by the Concessionaire on its part to be kept and performed.

The Proponent must offer a minimum rent to be paid to the City for the first year of the proposed Concessions Agreement (hereinafter "Minimum Annual Guarantee" or MAG) of at least $110,000. 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.

The Proponent must also propose a percentage rent based on Gross Receipts. The minimum percentage rent that the City will accept for the sale of Food and Beverage on the Premises is fifteen percent (15%).

****

The amount of the first year's Minimum Annual Guarantee (MAG) is Dollars $_____.

The Percentage Rental Fee (Gross Receipts) for Food and Beverage: _____%.

Please sign the appropriate place:

Signature _____

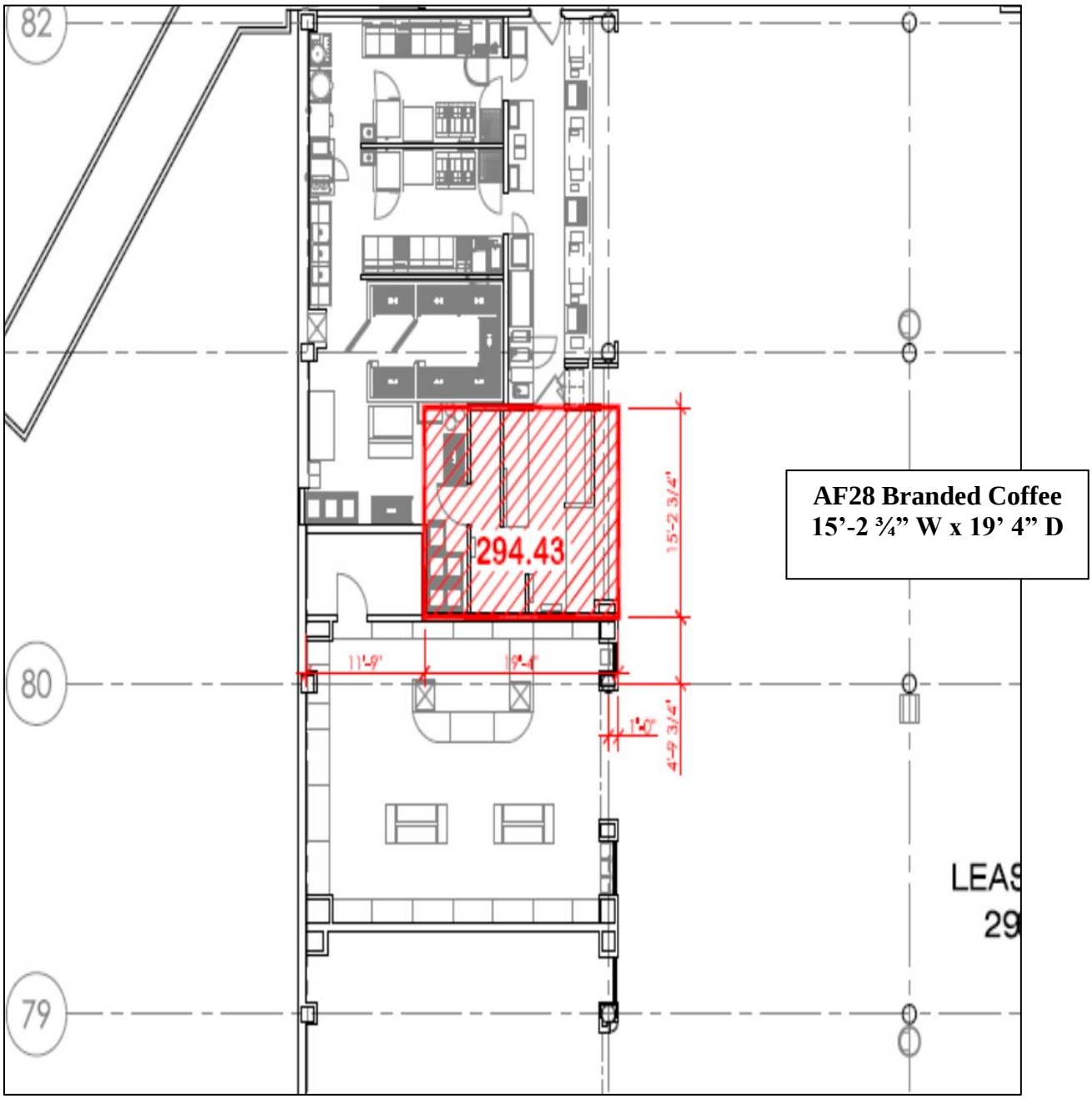
Title _____

Company _____

EXHIBIT A.2: MAP OF PREMISES

EXHIBIT A.2

MAP OF PREMISES



A-F28 Branded Coffee

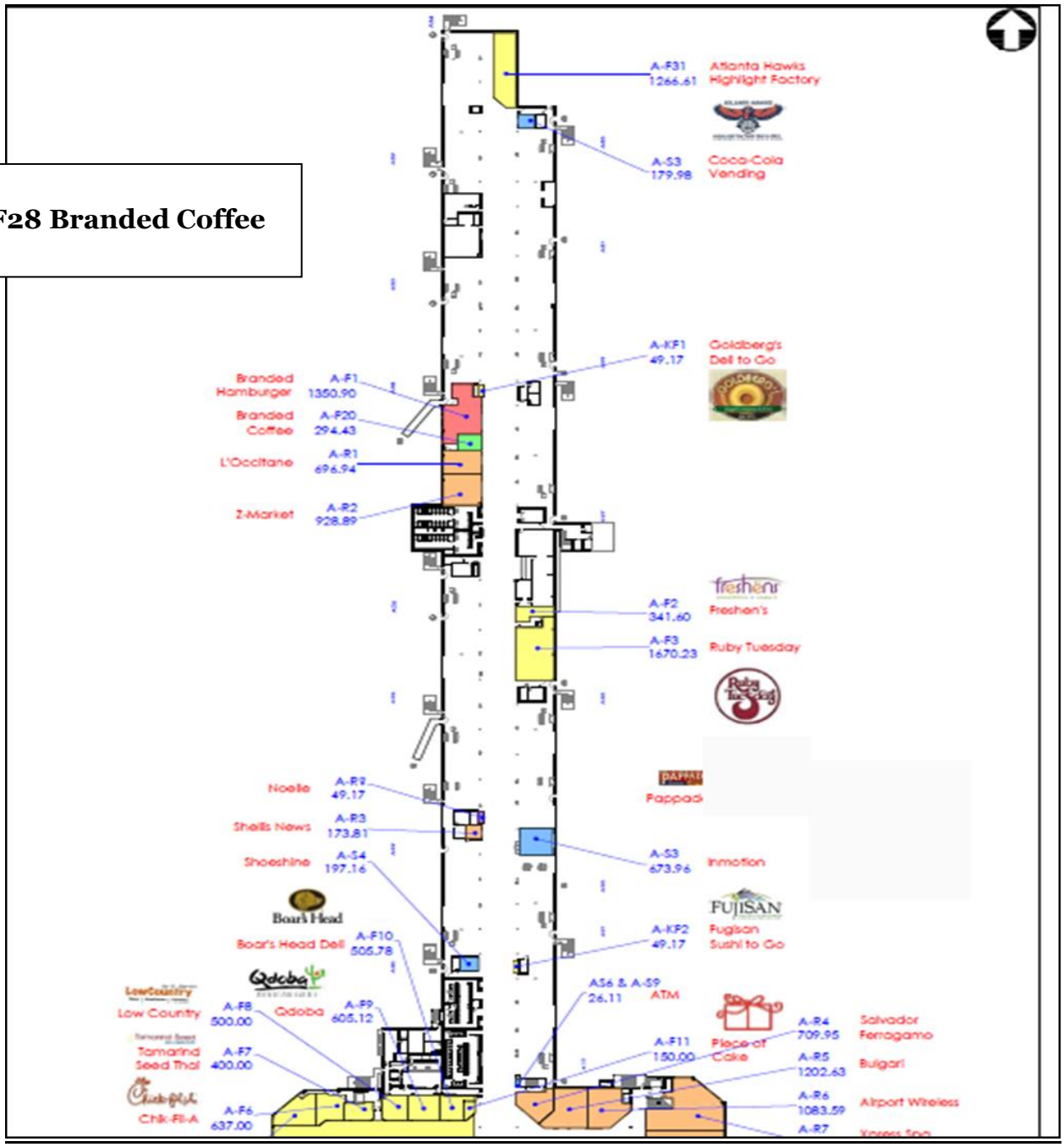


EXHIBIT A.3: HISTORICAL ENPLANEMENTS & REVENUES

EXHIBIT A.3

Historical Enplanements

	Concourse A	Total Enplanements
2014	11,290,000	47,900,000
2013	11,074,000	47,118,000
2012	12,038,000	47,706,000
2011	11,715,000	46,333,000
2010	11,771,000	45,816,000

Historical Revenues

	AF-1 Coffee Only
2014	$ 995,000
2013	$ 1,095,500
2012	$ 1,115,200
2011	$ 973,000
2010	$ 958,600

EXHIBIT B: CITY COUNCIL RESOLUTION

EXHIBIT B

AUTHORIZING LEGISLATION
[RESERVED]

EXHIBIT C: DEFINITIONS

EXHIBIT C

DEFINITIONS

When used in the Contract Documents, the following capitalized terms have the following meanings:

1. "Applicable Law(s)" means all federal, state or local statutes, laws ordinances, codes, rules, regulations, policies, standards, executive orders, consent orders, orders and guidance from regulatory agencies, judicial decrees, decisions and judgments, permits, licenses, reporting or other governmental requirements or policies of any kind by which a Party may be bound, then in effect or which come into effect during the time the Services are being performed, and any present or future amendments to those Applicable Laws, including those which specifically relate to: (a) the business of City; (b) the business of Contractor or Contractor's subcontractors; (c) the Lease Agreement and the Lease Agreement Documents; or (d) the performance of the Services under this Lease Agreement or any Task Order.

2. "Charges" means the amounts payable by City to Contractor under this Lease Agreement.

3. "City Security Policies" means the policies set forth in **Exhibit E**.

4. "Code" means the Code of Ordinances for the City of Atlanta, Georgia, as amended.

5. "Confidential Information" means all information, including, but not limited to, business or financial information, plans, strategies, forecasts, forecast assumptions, proprietary business practices and methods, marketing information and material, customer, supplier, and employee information, and all information concerning relationships with customers, suppliers and employees, proprietary ideas, concepts, know-how, methodologies, specifications, operations, processes and systems manuals, profiles, system and management architectures, diagrams, graphs, models, sketches, technical data, research and all other information related to a Party's past, present or future business activities or operations, now known or later discovered or developed, furnished or made available by or on behalf of one Party to the other or otherwise obtained by a Party from any source in connection with this Lease Agreement, including: (i) all information of a Party to which the other has had or will have access; (ii) all information of a Third Party, including customers and suppliers; (iii) all information entered or to be entered into software or equipment by or on behalf of a Party, as well as information obtained or derived from this information, including any such information as stored in, accessed or transmitted through or processed by equipment or software; and (iv) all information whose disclosure is exempted or restricted under Applicable Law. Confidential Information does not include information that is: (a) subject to public disclosure under Applicable Law such as the Georgia Open Records Act or the Federal Freedom of Information Act; (b) publicly available or becomes so in the

future without restriction and through no fault or action of the receiving Party or its agents; (c) rightfully received by either Party from a Third Party and not accompanied by confidentiality obligations; (d) already in the receiving Party's possession and lawfully received from sources other than the disclosing Party; (e) independently developed by the receiving Party without use of or reference to the Confidential Information of the disclosing Party; or (f) approved in writing for release or disclosure without restriction by the disclosing Party.

6. "Contract Documents" include this Agreement and the Exhibits, Addenda, Appendices and other documents attached hereto or referenced herein as well as any authorized changes or addenda hereto.

7. "Force Majeure Event(s)" means acts of war, domestic and/or international terrorism, civil riots or rebellions, quarantines, embargoes and other similar unusual governmental actions, extraordinary elements of nature or acts of God.

EXHIBIT D: INSURANCE & BONDING REQUIREMENTS

EXHIBIT D
INSURANCE & BONDING REQUIREMENTS
FC-8510 BRANDED COFFEE CONCESSION - CONCOURSE A

A. Preamble

The following requirements apply to all work under the Agreement. Compliance is required by Service Provider. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Exhibit D and applicable to the Agreement.** For all purposes hereunder, including but not limited to any Additional Insured Endorsements, the City shall include the City of Atlanta, its elected officials, officers, agents, and employees.

1. Evidence of Insurance and Bonding Required Before Work Begins

No work under the Agreement may be commenced until all insurance and bonding requirements contained in this Exhibit D, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City.

At the time Service Provider submits to City its executed Agreement, Service Provider must satisfy all insurance and bonding requirements required by this Exhibit D and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Service Provider does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the Agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the Agreement or under applicable law, make a claim against any proposal security provided by Service Provider.

If the Service Provider is an entity (e.g., corporation, limited liability company, etc.) or a partnership (e.g., general partnership, limited partnership, joint venture, etc.) then Service Provider shall tender insurance certificates and bonds in the name of Service Provider's entity or partnership as the primary insured.

2. Project Number & Name

The project number (**FC-8510**) and name (**Branded Coffee Concession – Concourse A**) must be referenced in the description section of the insurance certificate.

3. Minimum Financial Security Requirements

All companies providing insurance required by this Exhibit D must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-

Casualty. Upon request, the Service Provider must submit the ratings for each company to the City.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

i) Best's Rating not less than A-;
ii) Best's Financial Size Category not less than Class VII;
iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia; and
iv) All performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Service Provider in writing. Service Provider must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Service Provider's failure to comply with all insurance and bonding requirements set forth in this Exhibit D and applicable to the Agreement will not relieve Service Provider from any liability under the Agreement. Service Provider's obligations to comply with all insurance and bonding requirements set forth in Exhibit D and applicable to the Agreement will not be construed to conflict with or limit Service Provider's indemnification obligations under the Agreement.

4. Insurance and Bonds Required for Duration of Contract

All insurance and bonds required by this Exhibit D must be maintained during the entire term of the Agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

5. Notices of Cancellation & Renewal

Service Provider must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within two (2) business days of any notices received from any insurance carriers providing insurance coverage or surety providing bonds under this Agreement and Exhibit D (including any attachments thereto) that Service Provider receives concerning the proposed cancellation, or termination of coverage or security:

Enterprise Risk Management
68 Mitchell St., Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Service Provider shall provide the City with evidence of required insurance and bonding prior to the commencement of this Agreement, and, thereafter, with a certificate and/or bonds evidencing renewals or changes thereto at least fifteen (15) days prior to the expiration of previously provided certificates and/or bonds.

6. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this Agreement shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

7. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management** at **68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303.**

8. Additional Insured Endorsements – Form CG 20 26 07 04 or Equivalent

City shall be covered as an Additional Insured, as its interest may appear, under any and all insurance required pursuant to this Agreement, and such insurance shall be primary and non-contributory with respect to the Additional Insured. However, this requirement does not apply to Workers' Compensation or Professional Liability Insurance. Additional insured status extending to ongoing and completed operations per CG 20 26 07 04 or their carrier equivalent shall be provided. Additional insured status shall be maintained following project completion equivalent to the statute of repose in the State of Georgia.

NOTE: A copy of the Additional Insured Endorsement or its equivalent must be forwarded to the Risk Management Department as soon as practicable but in no event more than ten (10) days after the effective date of the Agreement.

9. Mandatory Sub-Contractor/Consultant Compliance

Service Provider must require and ensure that all of Service Provider's subcontractors operating under the Agreement at any level are sufficiently insured and bonded.

10. Self-Insured Retentions, Deductibles or Similar Obligations

Any self-insured retention, deductible or similar obligation will be the sole responsibility of the Service Provider.

11. Waiver of Subrogation in favor of the City of Atlanta

The certificates of Commercial General Liability Insurance and Commercial Automobile Liability Insurance tendered by the Service Provider must clearly indicate a waiver of subrogation in favor of the City of Atlanta.

B. Workers' Compensation and Employer's Liability Insurance

Service Provider must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the Agreement:

Workers' Compensation . . . . . **Statutory**
Employer's Liability:
Bodily Injury by Accident/Disease **$1,000,000 each accident**
Bodily Injury by Accident/Disease **$1,000,000 each employee**
Bodily Injury by Accident/Disease **$1,000,000 policy limit**

C. Commercial General Liability Insurance

Service Provider must procure and maintain Commercial General Liability Insurance on Form CG 00 00 01 (or equivalent) in an amount not less than $1,000,000 per occurrence subject to a $2,000,000 aggregate. The following indicated extensions of coverage must be provided:

- ☒ Contractual Liability
- ☒ Broad Form Property Damage
- ☒ Premises Operations Personal
- ☒ Injury
- ☒ Advertising Injury
- ☒ Medical Expense
- ☒ Additional Insured Endorsement (primary& non-contributing in favor of the City of Atlanta)
- ☒ Waiver of Subrogation in favor of the City of Atlanta

D. Commercial Automobile Liability Insurance

Service Provider must procure and maintain Automobile Liability Insurance in an amount not less than $1,000,000 Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

☒ Owned, Non-owned & Hired Vehicles
☒ Waiver of Subrogation in favor of the City of Atlanta

If Service Provider does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Service Provider's personal automobile policy or the Commercial General Liability coverage required under this **Exhibit D**.

Additionally, in accordance with Section 22-181(b) of Chapter 22, Code of Ordinances of the City of Atlanta, all vehicles requiring access to the restricted areas of the airport must be covered by an automobile liability policy in the minimum amount of **Ten Million Dollars ($10,000,000)** combined single limit for personal injury and property damage. The $10,000,000 limit of liability will also be imposed on any parties transporting workers, materials and/or equipment to the Airport site from parking lots or similar facilities.

E. Liquor Liability Insurance

Lessee shall purchase Liquor Liability if Lessee is in the business of serving or selling alcohol for a fee with limits of at least $1,000,000 Per Occurrence Bodily Injury and Property Damage. Coverage may also be satisfied through an endorsement to your Commercial General Liability Policy.

F. Property Insurance

Lessee shall procure and maintain Property Insurance covering all forms of risk on all Tenant Improvements and any other interests of Lessee, if applicable, in or about the Leased Premises, including inventory, supplies, and other property of Lessee located at said Premises, insuring against the perils of fire, lightning, extended coverage, perils vandalism, malicious mischief, glass breakage and sprinkler leakage, in an amount equal to the full replacement value of Tenant Improvements and any other interests of Lessee in or about said Premises.

I. Performance and Payment Bonds

At, or prior to, Service Provider's execution of the Agreement, Service Provider must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount equal to one hundred percent (100%) of one (1) year value of the contract naming the City as co-obligee and issued by a surety company or companies in such form as approved by the City's Attorney as attached hereto at Exhibit D-1. The bonds must be renewed annually at one hundred percent (100%) of the then current year's value as specified in the Agreement. The bonds must be kept in full force and effect during the Term and any renewals. In lieu of a Performance Bond, Service Provider may submit to the City an Irrevocable Letter of Credit in a form acceptable to City, in its sole discretion.

1. In addition, prior to the commencement of any construction work by or at the instance

of Tenant within the Premises, Service Provider must provide to City a fixed price contract or contracts for all work to be performed within the Premises, which contract(s) shall be insured by, and Tenant shall provide to the City, a Payment Bond in an amount equal to one hundred percent (100%) of the work specified in such contract(s) and acceptable to the City's Chief Financial Officer and in such form as approved by the City Attorney. The Payment Bond shall name the City as the Obligee, shall meet the other requirements of the Agreement, and shall remain in full force and effect until: (i) all Tenant Improvements are completely and fully paid for, (ii) certificates of occupancy have been issued for the Premises, (iii) final lien waivers have been obtained from all contractors and subcontractors; (iv) the City has approved the final construction of the Tenant Improvements; and (v) the applicable limitations period under Georgia law for the commencement of a suit against the Payment Bond has lapsed.

2. The bonds must be issued as security for the faithful performance of this Agreement, including, maintenance and guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all bills and obligations arising out of the performance of its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.

3. The surety company issuing the bonds must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.

4. A Corporate Surety that is satisfactory to City, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bonds.

5. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds must be the same as the date of execution of the Agreement by City. The Surety must appoint an agent for service in Atlanta, Georgia, upon whom all notices must be shown on each Bond. The person executing the Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.

6. For additional information regarding Payment and Performance Bonds, please see **Exhibit D-1** attached hereto and incorporated herein by this reference.

EXHIBIT D.1: PERFORMANCE & PAYMENT BONDS

EXHIBIT D-1
PERFORMANCE AND PAYMENT BONDS

1. At, or prior to, Service Provider's execution of the Services Agreement, Service Provider must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount equal to one hundred percent (100%) of the price specified in the Services Agreement, naming the City as co-obligee and issued by a surety company or companies in such form as approved by the City's Attorney as attached hereto as Attachments 1 and 2, which surety bond or bonds must be renewed annually, at one hundred percent (100%) of the then current price specified in the Services Agreement. The bonds must be kept in full force and effect during the Term and any renewals. In lieu of a Performance Bond, Service Provider may submit to the City an Irrevocable Letter of Credit in a form acceptable to City, in its sole discretion.

2. The bonds must be issued as security for the faithful performance of this Agreement, including, maintenance and guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all bills and obligations arising out of the performance its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.

3. The surety company issuing the bonds must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.

4. A Corporate Surety that is satisfactory to City, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bonds.

5. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds must be the same as the date of execution of the Agreement by City. The Surety must appoint an agent for service in Atlanta, Georgia upon whom all notices must be shown on each Bond. The person executing the Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.

EXHIBIT D-1

ATTACHMENT 1

Performance Bond

INSTRUCTIONS

1. **This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.**

2. **The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.**

3. **Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.**

4. **Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.**

5. **Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.**

6. **The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.**

7. **Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."**

8. **The name of each person signing this bond shall be typed or printed in the space provided.**

Performance Bond

"City" City of Atlanta, Georgia
"Project" Branded Coffee Concession Concourse A @ HJAIA
"FC No." FC-8510
"Principal"
Type of Organization ("X" one): _____ Individual
_____ Partnership
_____ Joint Venture
_____Corporation

"Surety:" (Name and Business Address) _____
_____
_____

duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20___, regarding performance of Work relative to the Project.

"Penal Sum:" _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally. **Principal and Surety agree that the Penal Sum shall be equal to or greater than one hundred percent (100%) of the total Minimum Annual Guarantee ("MAG") as specified in the Agreement for the first year of the Term as defined therein. If this bond is renewed annually as described below, then Principal and Surety agree that the Penal Sum shall equal or exceed the MAG as specified in the Agreement for the same 12-month period of the annual bond.**

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Agreement, including any and all duly authorized modifications of such Agreement, within the original term of such Agreement and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said Agreement, this obligation shall be void; otherwise, of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work. **Surety further agrees that it will provide City with at least 60 days' written notice by registered mail prior to any suspension, cancellation or termination of this bond; otherwise, this bond shall remain in full force and effect for a minimum of one (1) year (i.e., twelve (12) full months) beginning from the Effective Date of the Agreement. This bond may be renewed on an annual basis provided the renewal covers the requisite Penal Sum as required above; and, in the event Surety declines to renew this bond, Surety agrees that it will provide City with at least 60 days' written notice by registered mail prior to the expiration date of bond.**

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Sections 13-10-1 and 36-82-101, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20___.

PRINCIPAL: _____

_____
President/Vice President (Sign)

_____
President/Vice President (Type or Print)

Attested to by:

_____
Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

_____
Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

_____
Associate/Assistant City Attorney

APPROVED

_____
City's Chief Financial Officer

EXHIBIT D-1

ATTACHMENT 2

Payment Bond

INSTRUCTIONS

1. **This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.**

2. **The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.**

3. **Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.**

4. **Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.**

5. **Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.**

6. **The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.**

7. **Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."**

8. **The name of each person signing this bond shall be typed or printed in the space provided.**

Payment Bond

"City" City of Atlanta, Georgia
"Project" Branded Coffee Concession Concourse A @ HJAIA
"FC No." 8510
"Principal"
Type of Organization ("X" one): _____ Individual
_____ Partnership
_____ Joint Venture
_____Corporation

"Surety:" (Name and Business Address) _____
_____
_____

duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20___, regarding performance of Work relative to the Project.

"Penal Sum:" _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally. **Principal and Surety agree that the Penal Sum shall be equal to or greater than one hundred percent (100%) of the total Minimum Annual Guarantee ("MAG") as specified in the Agreement for the first year of the Term as defined therein. If this bond is renewed annually as described below, then Principal and Surety agree that the Penal Sum shall equal or exceed the MAG as specified in the Agreement for the same 12-month period of the annual bond.**

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Agreement, including any and all duly authorized modifications of such Agreement, within the original term of such Agreement and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said Agreement, this obligation shall be void; otherwise, of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work. **Surety further agrees that it will provide City with at least 60 days' written notice by registered mail prior to any suspension, cancellation or termination of this bond; otherwise, this bond shall remain in full force and effect for a minimum of one (1) year (i.e., twelve (12) full months) beginning from the Effective Date of the Agreement. This bond may be renewed on an annual basis provided the renewal covers the requisite Penal Sum as required above; and, in the event Surety declines to renew this bond, Surety agrees that it will provide City with at least 60 days' written notice by registered mail prior to the expiration date of bond.**

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Sections 13-10-1 and 36-82-101, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20___.

PRINCIPAL: _____

_____
President/Vice President (Sign)

_____
President/Vice President (Type or Print)

Attested to by:

_____
Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

_____
Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

_____
Associate/Assistant City Attorney

APPROVED

_____
City's Chief Financial Officer

EXHIBIT D.2: CONSTRUCTION SAFETY & HEALTH PLAN (NON-OCIP)

Concessions Site–Specific Safety/Security Manual Guidelines

Section 1 – This section should include a commitment letter signed by the President of your company. The following items must be addressed by this letter:

a. Company commitment to and philosophy on safety.
b. Company acknowledgement that they will commit to drug free workplace.
c. Company acknowledgement that they will comply with OSHA Standards 29 CFR 1926, 29 CFR 1910, 46 CFR (if applicable), and all TSA, DOA, and FAA security requirements.
d. Project Safety Representative's name and lines of authority, his authority regarding safety matters.
e. The following attachments should follow the commitment letter:
    1. Project Safety Representative and Alternate Safety Representative's resumes.
    2. Contact List for Supervisory Staff:
        i. Name
        ii. Job Title
        iii. Office Telephone Number
        iv. Cellular Telephone Number
        v. E-mail address
    3. List of Subcontractors:
        i. Name of Subcontractor
        ii. Address
        iii. Contact Person
        iv. Office Telephone Number
        v. Cellular Telephone Number
        vi. E-mail address

Section 2 – This section should include your company disciplinary policy.

Section 3 – This section should include your company drug policy.

Section 4 – This section should include the site specific job hazard analysis for your concessions project. It should take the tasks in your scope of work, analyze the hazards and list the proposed safety measures to abate those hazards.

Section 5 – This section should include your health and safety program administration. How you intend to conduct the onsite, day to day operations of your program and roles/responsibilities of those in your organization. Compliance with state, federal and local jurisdictions, commitment to safety education and training, how you handle new hire training, employee responsibilities, first aid, CPR, etc. Include in this section how you will address the items included in 29 CFR 1926 Subpart C General Safety and Health Provisions.

Section 6 – This section should be broken up into safety categories. At a minimum it Should include sections on the following:

a. Safe Work Practices
b. Housekeeping

c. Personal Protective Equipment
d. Respiratory Protection
e. Hearing Protection
f. Fall Protection
g. Fire Prevention
h. Ladder, Stairway and Ramp Safety
i. Scaffolding
j. Electrical Safety
k. Lockout Tagout Procedures
l. Tool safety
m. Personal hoists/manlifts
n. Welding and Cutting
o. Compressed Gas Cylinders
p. Excavation and Trenching
q. Mobile Equipment Operation and Operator Training
r. Trucking
s. Steel Erection
t. Cranes & Rigging
u. Hazardous Material Handling
v. Hazard Communication Compliance
w. Confined Space Entry Program
x. Concrete and Masonry Construction
y. Demolition
z. Explosives
aa. Work Zone Safety – MUTCD
bb. Miscellaneous – (Include any applicable items not covered above needed to successfully complete your contract.

Note: All items in Section 6 may not be used in the course of your construction. If an item is not relevant, you may leave it out of your plan, but indicate under that item that it is not needed for your project. There may also be items not included above that are relevant, but which are not included above. Those items must still be addressed in your plan.

A failure to include items in your safety plan which may be needed later will not relieve you of the responsibility to comply with the OSHA or MSHA standards that would apply and we reserve the right to require a supplemental safety submission to address that specific issue.

Section 7- Site Security: This section should detail your plan to maintain a secured site for your project. At a minimum the plan should identify scope of work of the project and include sections on the following:

a. Airport access to the space (through Gate 59 if accessing through the airfield)

b. Show the parking area for vehicles supporting construction
c. Show the store access points (through construction doors if required)
d. How is the site to be secured (Lock and Key type)
e. Explain detail of a tool inventory checklist and methodology/procedures to ensure tools are inventoried, stored and maintained in a secure manner
f. Identify any potential impacts to security devices (blocking or interfering with cameras, card readers, etc…) during construction
g. Normal work hours for the project
h. Security Emergency Contact List
i. Explain escorting procedures for individuals and vehicles

Section 8 – This section will include your Asbestos Abatement plan. (If applicable)

*Please provide both a hard and electronic copy of this document.

EXHIBIT E: DISPUTE RESOLUTION PROCEDURES

EXHIBIT E

DISPUTE RESOLUTION PROCEDURES

1. If Service Provider contends it is entitled to compensation or any other relief from City or if there are any disagreements over the scope of Services or proposed changes to the Services, Service Provider shall, without delay and within three (3) days of being aware of the circumstances giving rise to Service Provider's claim, provide written notice of its claim to City. If Service Provider fails to give timely notice as required by this subsection or if Service Provider commences any alleged additional work without first providing notice, Service Provider shall not be entitled to compensation or adjustment for any such work to the extent timely notice was not provided. Such notice shall include sufficient information to advise City of the circumstances giving rise to the claim, the specific contractual adjustment of relief requested and the basis for such request. Within ten (10) days of the date that Service Provider's written notice to City is required under this subsection, Service Provider shall submit a Proposed Change Document relating to the claim meeting the requirements of Subsection 5.3.2 of this Agreement.

2. The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Service Provider and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Services.

3. If a dispute or disagreement cannot be resolved informally Service Provider Authorized Representative and Authorized City Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Authorized Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

EXHIBIT F: AIRPORT ACCESS, SECURITY & SAFETY MEASURES

EXHIBIT F

AIRPORT ACCESS, SECURITY AND SAFETY MEASURES
(AS APPLICABLE)

1. **Work in Progress.** Contractor shall be responsible for and shall bear any and all risk of loss or damage to work in progress and, pursuant to the Section titled "TITLE AND RISK OF LOSS," to equipment and materials.

2. **Maintenance.** Contractor shall maintain the Work including any provisionally accepted portions thereof and including any portions occupied by City or put into service until final acceptance of the Work as a whole. Use shall not constitute acceptance, relieve Contractor of its responsibilities, or act as a wavier by the City of any terms of this Agreement (see specification section SP-4B, Extended Maintenance).

3. **Material Handling.** Contractor's responsibility for materials and plant equipment required for the performance of this Agreement shall include:

   3.1 Receiving and unloading;

   3.2 Storing in a secure place and in a manner subject to City's review. Outside storage of materials and equipment subject to degradation by the elements shall be in weather tight enclosures provided by Contractor;

   3.3 Delivering from storage to construction site all materials and plant equipment as required; and

   3.4 Maintaining complete and accurate records for City's inspection of all materials and plant equipment received, stored and issued for use in the performance of this Agreement.

4. **Security.** Contractor shall at all times conduct all operations under this Agreement in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or any other means to any equipment, materials, work or other property at the Jobsite. Contractor shall continuously inspect all equipment, materials and work to discover and determine any conditions which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions.

5. **Airport Security Requirements.** Contractor shall comply with the Transportation Security Administration ("TSA") and the City's security requirements for the Airport. Contractor shall cooperate with the TSA and the City on all security matters and shall promptly comply with any Project security arrangements established by City. Such compliance with these security requirements shall not relieve Contractor of its responsibility for maintaining proper security for the above-noted items, nor shall it be construed as limiting in any manner Contractor's obligation with respect to all applicable state, federal and local laws and regulations and its duty to undertake reasonable action to establish and maintain secure conditions at the Jobsite.

6. **Preventing Unauthorized Access.** The Airport has been secured to prevent unauthorized access to the Air Operations Area ("AOA"), the secured area, the sterile area and other controlled areas of the Airport. Contractor shall cooperate to the fullest extent with the TSA and DOA to maintain the integrity of the security system. The Contractor shall control its operations and the operations of its subcontractors and all suppliers so as to provide for the free and unobstructed movement of aircraft, aircraft operations personnel and equipment in the AOA, the secured area, the sterile area and other controlled areas of the Airport as defined herein.

7. **Transportation Security Administration/Responsibility of Contractor.** In order to comply with the TSA and DOA security requirements, Contractor shall be responsible for informing itself as to current, ongoing, and changing requirements, and for remaining in compliance with those requirements throughout this Agreement. The security requirements are as follows and from time to time may change as required by the TSA and/or DOA.

7.1 Security Identification Display Area (SIDA). The Security Identification Display Area (**"SIDA"**) is defined in the Airport Security Program as any area that requires individuals to continuously display Airport issued or Airport approved identification badges. Personnel associated with construction contracts in the AOA secured area or sterile area of the Airport shall display SIDA badges at all times. The TSA and the DOA require all personnel to display SIDA badges in areas controlled for security purposes at all times.

7.2 FBI/CHRC Checks. To obtain a SIDA badge, each individual must successfully undergo a Security Threat Assessment and a Federal Bureau of Investigation ("**FBI**") fingerprint based Criminal History Records Check ("**CHRC**") which must reveal no convictions of disqualifying crimes within the last ten years as defined in Transportation Security Regulation, TSR Part 1542.209. Each individual must also attend a security awareness course conducted by the DOA Security Division. Each employee must present two proper forms of identification and citizenship/employment eligibility documents if necessary. Contractor shall be responsible for all fees associated with obtaining a SIDA badge (i.e., badge and fingerprint fees as determined by DOA). The current cost for the CHRC is $50.00 per individual. The current cost for badge is $60.00 per individual. Cost for lost badges is $60.00 for each replacement badge.

7.2.1 In order to obtain up-to-date costs for the CHRC and for badging, Contractor shall contact the DOA Security office at (404) 530-6667 prior to sending individuals to the DOA Security office for badging. Contractor/Escorting Requirements are specified in subsection below.

7.3 Displaying Badges. Employees and those of all subcontractors must display a DOA issued badge showing Contractor's name and an employee number. All personnel shall be required to wear this badge at all times while within the secured areas of the Airport.

7.4 Badging Records and Process. Contractor shall maintain an up-to-date record of all badge holders showing name, address, sex, height, weight, color of eyes and badge number. Contractor will be required to furnish this information to the DOA upon request.

7.4.1 The Badging process may begin upon the Contractor's receipt of a formal Notice to Proceed (NTP) from the City and may take up to fourteen (14) calendar days to complete. Access to secured areas shall be denied until such time as the Contractor has completed the badging process.

7.4.2 If applicable, an Administrative NTP may be presented to the DOA Security Division by the Contractor in order to initiate the badging process for the Contractor's employees.

7.4.3 The Contractor shall appoint one of its employees as an Authorized Signatory and submit his or her name, on the Contractor's letterhead, to the DOA Security Division. The submittal letter shall indicate the Project Name, Agreement Number, Point of Contact, Telephone and Fax number, list of subcontractors including subcontractors' Authorized Signatory nature of the work to be performed by Contractor, and each subcontractor, location and duration, time frame(s), and justification for vehicle access, if required. A copy of the Contractor's Insurance Certificate shall accompany the letter. Once badged, the Contractor's Authorized Signatory shall be responsible for the badging process of his/her company employees.

7.4.4 Each Subcontractor identified in the Contractor's letter shall appoint one of its employees as an Authorized Signatory and submit his or her name through the Contractor, to the DOA Security Division. A copy of the Subcontractor's Insurance certificate shall accompany the letter. Once badged, the Subcontractor's Authorized Signatory shall be responsible for the badging process of his/her company employees.

7.4.5 Processing time for badging, at the badging office after completion of the CHRC, will last approximately one (1) hour. Processing time for Authorized Signatories will last an additional hour for briefing by the DOA Security Division. Authorized Signatory briefing sessions will be conducted only on Wednesdays at 2p.m. in the DOA Security office.

7.4.6 Each person applying for badging shall complete and submit all forms required by the DOA Security Division. All required forms will be provided to the Authorized Signatory at the time of the briefing at the DOA Security office.

7.4.7 Each person applying for a badge shall also submit to fingerprinting upon the submittal of said forms. Fingerprints will be utilized for a ten (10) year FBI-based criminal history records check for each individual employee.

7.4.8 Pursuant to TSR § 1542.209 certain felony convictions within the most recent ten (10) year period, may cause disqualification. A list of disqualifying Felony convictions is available in the offices of the DOA Security Division and in the TSR Regulations.

7.4.9 The Authorized Signatory will be notified when the results of the fingerprint checks are completed. Upon notification and approval, Contractor's and subcontractor's approved employees may return to the DOA Security Office, during posted hours, for photographing and badging. This process may take up to sixty (60) minutes.

7.4.10 Badges issued to Contractor and subcontractor employees and agents shall expire upon the happening of one (1) of the following events, whichever occurs first:

7.4.10.1 Completion of Agreement or subcontract, unless extended by the City;

7.4.10.2 Expiration of Insurance coverage, as indicated on the Contractor's Insurance certificate;

7.4.10.3 Employee's driver's license expiration date; or

7.4.10.4 Two (2) years from the issuance of the badge.

7.4.11 Contractor and its subcontractor shall be responsible for making arrangements, ahead of time, to extend badges, when necessary. A letter, directed to both the DOA Assistant General Manager of Public Safety & Security and the DOA Director of Security, explaining the reason(s) for the badge extension on Contractor's letterhead will be required. Extension requests must be approved in writing by the DOA prior to extension of the badges.

7.4.12 Contractor's questions concerning Airport Security shall be directed to (404) 530-6667.

8. Drivers. All drivers operating vehicles within the AOA must obtain, in addition to the DOA Security badge, a DOA Ramp Certification. Ramp Certification will be evidenced by a "D" designation placed on the face of the badge by the DOA Security Division.

8.1 **Ramp Certification.** City will require Airport Driver Safety Training and Ramp Certification for all personnel required to operate a motor vehicle in the AOA. This can be obtained by completing an Airport Driver Safety Training Course administered by the DOA Security Division. Contractor shall contact the DOA Security Office at (404) 530-6667 during normal business hours for more information.

8.2 Except as set forth below, all vehicles operating within the AOA shall carry a minimum liability insurance coverage amount of TEN MILLION DOLLARS ($10,000,000.00).

8.3 Contractor shall mark all vehicles and construction equipment, including those of subcontractors, in a manner as required by the Department of Aviation and consistent with Transportation Security Regulations (TSR).

8.4 All vehicles operating within the AOA must display permanent signage, legible and visible from a sight distance of five hundred (500) feet on both sides of the vehicle. MAGNETIC SIGNS ARE PROHIBITED FROM USE IN THE AOA.

9. Protocols for Contractor Escorting. Prime contractor must incorporate escorting protocol with Security Plan submitted for approval by the DOA Security Manager. The DOA Security Manager must approve any exceptions. Contractor must attach a map of work area(s) and routes to access the work area(s) to project security plan submitted to the DOA Security Division for approval. Contractor may contact DOA Security Manager at (404) 530–6667 during normal operating hours.

9.1 All escorted vehicles and personnel must remain under the direction of authorized escorting personnel at all times.

9.2 Contractor and escorted personnel shall have no Terminal or Concourse access.

9.3 Escorting is limited to an approved Airport SIDA badged prime Contractor or an approved Airport SIDA badged escorting subcontractor approved by the DOA Security Manager to perform escorting duties. The individuals involved in escorting shall perform no other services other than escorting while in service. No other subcontractors will be allowed to escort any vehicle(s).

9.4 Escorting person(s) must have a SIDA badge and be approved to conduct escorts.

9.5 Designated badged prime Contractor employees approved or designated badged escorting subcontractor must escort prime Contractor employees and subcontractors' employees to all work sites. Once at the work site, badged employees, prime or subcontractors, may supervise unbadged employees, not to exceed five (5) employees per one (1) SIDA badged employee.

9.6 All personnel (badged or escorted) must have an employee photo ID displayed on the outermost garment, waist high or above. The employee badge must contain the employee's name, Contractor's name and project number or name. All escorted

personnel must remain under the control of person(s) with an SIDA badge with escort privileges at all times while in the SIDA, Secure, or Sterile Areas.

9.7 Maximum vehicular escort—one (1) prime contractor vehicle or approved badged escorting subcontractor is permitted to escort two (2) subcontractor vehicles.

9.8 All vehicles requiring escort must access and egress the SIDA through Pre-approved gates. Vehicles requiring escort shall not be permitted access or egress through any other entry or exit point for any reason whatsoever.

9.9 All escorted vehicles must obtain a permit, valid for up to ten (10) hours, at Gate 59 or other approved vehicle access point. The obtaining of a permit, however, shall not relieve a vehicle from the requirement of being escorted as set forth herein.

9.10 In the event an escorted vehicle requires a time limit extension, the vehicle, and its original operator, must return to Gate 59 or approved vehicle access point to obtain a time limit extension to complete work in the SIDA, Secure, or Sterile Areas. Time limit extension shall not exceed an additional ten (10) hour period under any circumstances.

10. Construction Contracts Within Sterile Area (Inside Terminal, Concourses)

10.1 Highest level of Security required.

10.2 All employees of prime Contractor, and its subcontractors, must be badged to work in the sterile area.

10.3 If escorting of unbadged Contractors and or subcontractors is required, an approved sponsor agency (DOA, AATC, HACM, HCM, etc.) must perform escort full time.

10.4 For any work requiring access to the sterile area (beyond the Passenger Screening Checkpoint area and on Concourses), a tool inventory must be conducted daily by the prime Contractor or designated representative. A copy of this inventory should be provided to the construction manager or project manager for verification. In general, tools will not be allowed to pass through the checkpoint area.

11. Restricted AOA Access. Contractor shall allow passage into the AOA or secured area through its access point to persons, vehicles, and equipment displaying identification of the DOA or provide an escort for each person or vehicle not displaying proper identification. Escort vehicles must be insured as specified per Exhibit D; Insurance. Escorted vehicles need not carry the aforementioned coverage but must carry the minimum amounts of insurance required by Georgia Law. However, Insurance coverage of escort vehicles must provide coverage as specified by **Exhibit D** for vehicles being escorted.

12. Visual Aids. In the event of the possibility of contact with the AOA or secured area, Contractor shall establish a system of visual aids for marking and delineating the limits of

required clearances adjacent to active runways, taxiways, and NAVAIDS during both day and night time work, subject to City's approval prior to the start of any work under this Agreement. The approved system of marking and delineating shall be installed, maintained and protected at all times.

13. **Tools and Materials.** Contractor shall create and maintain an inventory of all tools and materials utilized within the SIDA, Secure Area, Sterile Area, Federal Inspection Service (FIS), and AOA.

    13.1 All tools and materials shall be stored and maintained in a secured manner to prevent unauthorized use, within pre-designated areas within the secured areas of the airport. Storage designations shall be obtained by the Contractor and/or subcontractor, prior to mobilization, by contacting the DOA Properties Division at (404) 209-2945. Change requests for storage designation may be approved only through the DOA Properties Division with notification and concurrence from the DOA Security Division. Failure to comply with this requirement may result in the termination of Contractor's or subcontractor's contract and disqualification from working on construction contracts within secured areas of the Airport.

    13.2 All tools and materials must be secured to prevent unauthorized use at all times within the secured areas of the Airport and/or the AOA. Failure to comply with this requirement may result in the termination of Contractor's or subcontractor's contract and disqualification from working on construction contracts within secured areas of the Airport.

    13.3 Any and all job-specific or unusual tools and/or materials shall be presented to the security authority at point of entry gate when accessing and/or egressing the SIDA and/or AOA. Failure to comply with this requirement may result in the termination of Contractor's or subcontractor's contract and disqualification from working on construction contracts within secured areas of the Airport.

    13.4 All vehicles shall remain subject to search while within the secured areas of the Airport and/or the AOA at all times. Vehicles may also be searched prior to entry to the secured areas of the Airport. The possession of weapons and other prohibited items may result in criminal or civil charges in accordance with applicable laws.

14. **Dumpsters.** Contractors and subcontractors shall be allowed no more than one (1) open dumpster per Agreement work area. Any and all other job-site dumpsters must remain securely covered and fastened at all times.

    14.1 Trash must be removed daily.

    14.2 No dumpster shall be permitted in the Terminal area for any reason whatsoever.

14.3 The Contractor shall be responsible for trash removal from dumpsters within the AOA. Contractor shall clear debris on a daily basis not later than the end of shift.

14.4 Dump trucks shall access and egress the AOA through pre-approved gates. Failure to comply with this requirement may result in the termination of Contractor's or subcontractor's contract and disqualification from working on projects within the secured areas of the Airport.

15. Terminal/Curbside. A maximum of two (2) Contractor vehicles <u>or</u> two (2) subcontractor vehicles may be permitted in a work area at any given time, subject to the approval of the Atlanta Police Department and the DOA Security. In the event one (1) Contractor vehicle is present, then no more than one (1) subcontractor vehicle may be present at the same time, and vice versa.

15.1 Debris removal may be allowed from curbside with special permission by the DOA Security Department.

15.2 When parked at curbside, at least one (1) badged employee must remain with the vehicle at all times. Vehicles must be removed as expeditiously as possible in all cases.

15.3 Areas surrounding vehicles accessing curbsides must be kept clean at all times.

15.4 For purposes of obtaining Terminal or Curbside access, the APD Airport Section shall be contacted by dialing (404) 530-6630 24 hours in advance of the desired access time.

16. Staging Areas. The Contractor's Construction staging area shall be identified on the plans.

17. Federal Inspection Service Areas. For any or all work conducted within Federal Inspection Service (FIS) areas, Contractor shall submit FIS Authorization requests to the **U. S. Customs & Border Protection (404) 765-2303.** The request shall detail the names of employees, description and area of work, work schedule, and any other relevant information to the DOA Security Department.

17.1 Contractor shall be responsible for obtaining the appropriate approvals and special SIDA badge FIS access decals from the appropriate Federal authorities. Special SIDA badge FIS access decals will not be required in if one (1) or more U.S. Customs Agent(s) are present at the work site at all times.

18. Security Checkpoints. Contractor and subcontractors shall maintain awareness among all employees, and at all times, that all Security Checkpoints are now under Federal jurisdiction rather than privately contracted Security agents. In general, contractors will not be allowed to carry tools and construction materials through the passenger security screening points.

18.1 Questions regarding Federal Security Checkpoints shall be directed to (404) 763-7437 or (404) 530-2150.

19. **Restrictions on Operations.** Contractor shall plan and conduct its operations so as not to enter upon lands in their natural state unless authorized by City. Contractor shall not damage, close or obstruct any utility installation, highway, road or other property until permits and City's permission therefore have been obtained. Contractor shall not disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission line, ditch or structure unless specifically authorized by this Agreement. Contractor shall not damage or destroy cultivated and planted areas, or vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises which, as determined by City, do not interfere with the performance of this Agreement. The City will be responsible for furnishing all rights-of-ways upon which the Work is to be constructed in advance of the Contractor's operation.

20. **Cooperation with Agencies.** Contractor shall cooperate with the owner of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA), or a utility service of another government agency that may be authorized by the owner to construct, reconstruct or maintain such utility services or facilities during the progress of the Work. In addition, Contractor shall control its operations to prevent the unscheduled interruption of such utility services and facilities.

21. **Location of Services.** The City does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the plans or encountered in the Work. Any inaccuracy or omission in such information shall not relieve Contractor of its responsibility to protect such existing features from damage or unscheduled interruption of service.

22. **Notice to Owner/Operators.** Prior to commencing the work in the general vicinity of an existing utility service or facility, Contractor shall notify each owner/operator in writing of activities which might affect its interests. If, in Contractor's opinion, the owner/operator's assistance is needed to locate the utility service or facility or the presence of a representative of the owner/operator is desirable to observe the work, such advice should be included in the notification. Contractor shall furnish a copy of such written notices to City.

23. **Excavation Methods.** Where the outside limits of an underground utility service have been located and staked on the ground, Contractor shall use excavation methods acceptable to City as may be required to insure protection from damage due to Contractor's operations.

24. **Damage to Services.** Should Contractor damage or interrupt the operation of a utility service or facility by accident or otherwise, it shall immediately notify in writing the owner/operator, appropriate public safety authorities and City and shall take all reasonable measures to prevent further damage or interruption of service. Contractor in such events shall cooperate with the utility service of facility owner and City continuously until such damage has been repaired and service restored.

25. **Failure to Protect Property.** Contractor shall not be entitled to any extension of time or compensation on account of Contractor's failure to protect all facilities, equipment, materials and other property as described herein. All costs in connection with any Improvements or restoration necessary or required by reason of unauthorized obstruction, damage or use shall be borne by Contractor.

26. **Utility Contractor Licensing Requirements.** Contractor shall comply with the requirements of state law, including, but not limited to, O.C.G.A. § 43-14-8.2 (b)(1) which states that:

> After June 30, 1994, no sole proprietorship, partnership, or corporation shall have the right to engage in the business of utility contracting unless such business holds a utility contractor license and there is regularly connected with such business a person or persons who holds a valid utility manager certificate issued under this chapter. Such utility manager must be actually engaged in the performance of such business on a full-time basis and oversee the utility contracting work of all employees of the business. In cases where a sole proprietorship, partnership, or corporation has more than one permanent office, then each permanent office shall be registered with the division and at least one person who holds a valid utility manager certificate issued under this chapter shall be stationed in each office on a full-time basis and shall oversee the utility contracting work of all employees of that office.

APPENDIX A: OFFICE OF CONTRACT COMPLIANCE

CITY OF ATLANTA

Kasim Reed
Mayor

SUITE 1700
55 TRINITY AVENUE, SW
ATLANTA, GA 30303
(404) 330-6010 Fax: (404) 658-7359
Internet Home Page: www.atlantaga.gov

OFFICE OF CONTRACT COMPLIANCE
Larry Scott
Director
lscott@atlantaga.gov

October 14, 2015

RE: FC-8510, Branded Coffee Concourse A (RFP) at Hartsfield-Jackson Atlanta International Airport

Dear Prospective City of Atlanta Bidder:

This packet is substantially different from all previous packets. The Office of Contract Compliance's **Airport Concessions Disadvantaged Business Enterprises (ACDBE)** information is an integral part of every Federally Funded City of Atlanta bid or proposal. Your efforts to assist the City of Atlanta in mitigating the present effects of past discrimination against disadvantaged business enterprises are essential. Please read all of the information very carefully. Pay close attention to the contract goals for this project and the ACDBE program reminders listed on page ACDBE 5.

Many businesses that appear in our register as certified M/FBEs or SBEs are not currently certified as **Airport Concessions Disadvantaged Business Enterprises.** Certification of ACDBE firms is being handled by a different agency. Please see page ACDBE 2 for details of certification of ACDBEs. Thank you for your extra attention to the ACDBE program.

If you have any questions about the information included in this section of the solicitation please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

The City of Atlanta looks forward to the opportunity to do business with your company.

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Kasim Reed
Mayor

OFFICE OF CONTRACT COMPLIANCE
Larry Scott
Director
lscott@atlantaga.gov

CITY OF ATLANTA

AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE

POLICY STATEMENT

It is the policy of the City of Atlanta to ensure that ACDBEs, as defined in 49 CFR Parts 23 and 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the City of Atlanta's policy:

1. To ensure non-discrimination in the award and administration of DOT assisted Opportunities;

2. To create a level playing field on which ACDBEs can compete fairly for DOT Assisted contracts;

3. To ensure that the ACDBE program is narrowly tailored in accordance with applicable law;

4. To ensure that only firms that fully meet 49 CFR Parts 23 and 26 eligibility standards are permitted to participate as ACDBEs;

5. To help remove barriers to the participation of ACDBEs in DOT assisted contracts; and

6. To assist the development of firms that can compete successfully in the market place outside the ACDBE program.

IMPLEMENTATION OF ACDBE POLICY
CONTRACT GOALS

The City of Atlanta establishes contract goals only on those contracts that have subcontracting and/or joint venture possibilities. The size of the contract goal is adopted on a project by project basis, impacted by the circumstances of each such contract (e.g. type and location of work, availability of ACDBEs to perform the particular type of work), in relation to the City's annual DBE goal.

The City of Atlanta expresses its contract goals as a percentage of the total amount of each particular DOT-assisted contract.

Each solicitation for which a contract goal has been established requires the bidders/offerors to submit the following information as part of their bid or offer:

1. The names, addresses and phone numbers of ACDBE firms that will participate in the contract;

2. A description of the work that each ACDBE will perform;

3. The dollar amount of the participation of each ACDBE firm's participation;

4. Written and signed documentation of commitment to use a ACDBE subcontractor whose participation is submitted to meet a contract goal;

5. Written and signed confirmation from the ACDBE that it is participating in the contract as provided in the prime contractor's commitment; and,

6. If the contract goal is not met, evidence of good faith efforts to meet the goal.

The City of Atlanta has designated the Office of Contract Compliance as its DBE Liaison Office. The address of OCC is 55 Trinity Avenue, Ste. 1700, Atlanta, Georgia 30303. The phone number is (404) 330-6010.

Each contracting opportunity at the airport is individually evaluated and the individual contract goal is adjusted as appropriate in relation to the City's Annual DBE goal. The City of Atlanta will express its contract goal as a percentage of the total amount of each individual DOT-assisted contract.

GOOD FAITH EFFORTS

The City of Atlanta treats bidder/offerors' compliance with good faith effort requirements as a matter of responsiveness. Compliance of bidders with the ACDBE requirements, including good faith efforts, will be evaluated according to the standards of 49 CFR Parts 23 and 26.

DEMONSTRATION OF GOOD FAITH EFFORTS

The obligation of the bidder/offeror is to make good faith efforts to meet the goal. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting its good faith efforts. Examples of good faith efforts are found at 49 CFR Parts 23 and 26 Appendix A and are attached to this document.

OCC is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. In determining whether a bidder/offeror is responsive to the ACDBE goals, OCC will consider whether the information submitted by that bidder/offeror is complete, accurate and adequately documents the bidder's/offeror's good faith efforts. Bidders who are informed that they have not met the "good faith efforts" requirements are entitled to administrative reconsideration of that determination, per 49 CFR 26.53(d).

AIPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE CONTRACT GOALS

PROJECT # FC-8510, Branded Coffee Concourse A (RFP) at Hartsfield-Jackson Atlanta International Airport

The Airport Concessions Disadvantaged Business Enterprise (ACDBE) contract goal for this project is:

41.0%

ACDBE participation may be in the form of a prime contractor, joint venture, or sub-contractor arrangement. The above referenced goal will be measured against **total gross revenue earned (prior to the deduction of any expenses, e.g., advertising, insurance, equipment, etc.)** throughout the life of the project.

***NOTE:** Once a successful proponent has been identified, OCC will work with that proponent to ensure that opportunities are maximized in the utilization of **certified ACDBE firms** during the construction build-out of the concession space(s), as well as any on-going supply opportunities. Participation in these areas must be contemplated independently, and not be included in the participation plan proponents submit in their efforts to meet the 36.0% goal stated above.

MONITORING OF ACDBE POLICY

The City of Atlanta will require prime contractors to maintain records, documents, and receipts of gross revenue attributed to ACDBEs for three years following the performance of the contract. Those records must be made available for inspection upon request by any authorized representative of the City of Atlanta or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The City of Atlanta will keep a running tally of actual gross receipts attributed to the ACDBE firms from the time of the contract award.

The City of Atlanta's Office of Contract Compliance, or its designee, will perform interim audits of gross receipts and contract payments to ACDBEs if applicable. The audit will review payments to ACDBE subcontractors to ensure that the actual amount paid to ACDBE subcontractors equals or exceeds the dollar amounts stated in the schedule of ACDBE participation.

ACDBE PROGRAM REMINDERS

1. ACDBE Plan. All proposals must contain a ACDBE Participation plan in accordance with the goals set forth above. The ACDBE plan must identify each ACDBE's name, address, and contact name, work description, and contract amount.

2. Subcontractor and Supplier Participation. On projects with subcontractor and supplier opportunities, disadvantaged business enterprise participation may only be met through certified businesses that meet the standards of 49 CFR Parts 23 and 26, Subparts D and E. Each prime contractor must meet the requirements of the ACDBE program.

3. Failure to Meet ACDBE Goals. Any bidder unable to meet the ACDBE goals must document the good faith efforts it made to meet the goals. Documentation must follow the requirements of the ACDBE plan pursuant to 49 CFR Parts 23 and 26 etc. If the City determines that good faith efforts were not made, the bidder is entitled to administrative reconsideration under 49 CFR 26.53.

4. Certification. As of March 1, 2004, the City no longer does DBE Certification. DBE Certifications are now handled by the GA Department of Transportation (GA DOT). The contact number for GA DOT is (404) 656-5267

5. Reporting. The successful bidder must submit monthly ACDBE participation reports to OCC, in a form prescribed by the Office of Contract Compliance.

6. ACDBE Concession Program. The ACDBE Concession Program is governed by the provisions of "49 CFR Parts 23 and 26".

7. Contract Assurance. The Concessionaire shall not discriminate on the basis of race, color, national origin, sex, religion, or sexual orientation in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Atlanta deems appropriate. Anti discrimination provisions based upon religion and sexual orientation are not included by or enforceable through 49 CFR Parts 23 and 26 but are enforceable through the City of Atlanta regulations.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

PROJECT # FC-8510, Branded Coffee Concourse A (RFP) at Hartsfield-Jackson Atlanta International Airport

IMPLEMENTATION OF EEO POLICY

The City effectuates its EEO policy by adopting racial and gender workforce goals for every contractor performing work for the City of Atlanta on federally funded projects. These goals are derived from the work force demographics set forth by the United States Department of Labor Federal Office of Contract Compliance. These goals are not included in or enforceable through 49 CFR Part 26.

A FIRM 'S WORK FORCE CONSISTING OF LESS THAN TWENTY-FIVE (25) EMPLOYEES IS EXEMPT FROM THE FOLLOWING EEO REQUIREMENTS

The Office of Federal Contract Compliance Programs (OFCCP) is the office of the United States Department of Labor that has responsibility for administration and enforcement of the Equal Employment Opportunity requirements under the contract compliance program which is authorized by Executive Order 11246 as amended, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans Readjustment Act of 1974. The programs mentioned above prohibit Federal contractors and sub-contractors from employment discrimination based on Race, Sex, National Origin, Religion, Sexual Orientation, and against persons with Disabilities or Vietnam Era Veterans, and requires such contractors to take affirmative action to ensure equal employment opportunity.

BUSINESS DEVELOPMENT PROGRAMS

Though the ACDBE program primarily focuses on ACDBE participation at the subcontractor level, it is also important to provide ACDBEs with experience, training and skill development at the prime contractor level. The City of Atlanta encourages joint ventures between a prime contractor and an ACDBE, or a mentor protégé agreement between a prime contractor and a ACDBE whenever feasible on applicable contracts. The general description of the joint venture and mentor-protégé agreements is found on **Attachment 1 and Attachment 2** hereto and in the Atlanta Code of Ordinances.

CITY OF ATLANTA CONTRACT COMPLIANCE CERTIFICATE

The undersigned has prepared and submitted all the documents attached hereto. The documents have been prepared with a full understanding of the City's goals and objectives with respect to increased opportunity in the proposed work to e undertaken in performance of this project. It is the company's intent to achieve the airport Concessions Disadvantaged Business Enterprise goals, the Equal Employment Opportunity goals, and the First Source Jobs Employment goals.

All information and representations contained herein and submitted with this bid or proposal are true and correct.

_____ _____

Witness

Signature
Company Authorized Representative

Date: _____

Company Name: _____

FC Number: _____

Project Name: _____

ACDBE FORM-1

SUBCONTRACTOR CONTACT FORM

List all subcontractors or suppliers (Both ACDBE and Non-ACDBE Certified) that were contacted regarding this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Business Ownership Code: AABE - African American Business Enterprise, HABE – Hispanic Business Enterprise, FBE – Female Business Enterprise. APABE – Asian (Pacific Islander) American Business Enterprise

***Note: COA M/FBE certification does not count for DBE program goals. Firms must be certified by the GA DOT.

Company Name: _____ **Project Name:** _____ **FC#:** _____

Signature: _____ **Date:** _____

***Note: COA M/FBE certification does not count for DBE program goals. Firms must be certified by the GA DOT.

AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE SUBCONTRACTOR PROJECT PLAN
SUBCONTRACTOR/SUPPLIER UTILIZATION

List all Majority and Airport Concessions Disadvantaged Business Enterprises (ACDBE) subcontractors/suppliers, including lower tiers, to be used on this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	NIAC Code	Type of Work to be Performed	Ethnicity of ACDBE Ownership (see code below)	ACDBE Certification No. and Expiration Date	Dollar ($) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

Total ACDBE%_____

Code: AABE - African American Business Enterprise, HABE – Hispanic American Business Enterprise, FBE – Female Business Enterprise,
ABE – Asian (Pacific Islander) American Business Enterprise, (*Note… EBO certification does not qualify for DBE projects)**

Proponent's Co. Name: _____ **Project Name:** _____ **FC#:** _____

Proponent's Contact Number:_____ **Signature:**_____ **Date:** _____
(Please Print)

ACDBE FORM-3

(THIS PAGE SHALL BE SUBMITTED FOR EACH ACDBE FIRM)

LETTER OF INTENT

Airport Concessions Disadvantage Business Enterprise

Proponent Name:_____

Address:_____

City:_____ State:_____ Zip:_____

ACDBE Firm: ACDBE Firm:_____

Address:_____

City:_____ State:_____ Zip:_____

ACDBE Contact Person: Name:_____ Phone: (___)_____

Expiration Date of ACDBE Certification:_____

ACDBE is performing as: ☐ Prime Concessionaire ☐ Sub concessionaire ☐ Joint Venture

Work item(s) to be performed by ACDBE	Description of Work Item	Quantity	Total

The proponent is committed to utilizing the above-named ACDBE firm for the work described above. The estimated participation is as follows:

ACDBE contract amount: $_____ Percent of total contract:_____%

AFFIRMATION:
The above-named ACDBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Print name) *(Title)*

_____
(signature) *(date)*

* In the event the proponent does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

ACDBE FORM-4

FIRST SOURCE JOBS PROGRAM POLICY STATEMENT

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta whenever possible. Every contract with the City of Atlanta creates a potential pool of new employment opportunities. The prime contractor is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact Michael Sterling of the Atlanta Workforce Development Agency at (404) 546-3000. This City of Atlanta program is not included in or enforceable through 49 CFR Parts 23 and 26.

Michael Sterling, Interim Executive Director
First Source Jobs Program
Atlanta Workforce Development Agency
818 Pollard Boulevard
Atlanta, Georgia 30315
(404) 546-3000

FIRST SOURCE JOBS INFORMATION FORM

Company Name: _____

FC Number: _____

Project Name: _____

The following entry-level positions will become available as a result of the above referenced contract with the City of Atlanta:

1.

2.

3.

4.

5.

Include a job description and all required qualifications for each position listed above.

Identify a company representative and contact phone number who will be responsible for coordinating with the First Source Jobs Program.

Company Representative: _____

Phone: _____

FORM 5

THIS AGREEMENT REGARDING THE USE OF THE FIRST SOURCE JOBS PROGRAM BY CONTRACTORS WITH THE CITY OF ATLANTA TO FILL ENTRY LEVEL JOBS is made and entered into by _____

_____

This_____ day of_____, 201__.

The City of Atlanta requires the immediate beneficiary or primary contractor for every eligible project to enter into a First Source Jobs employment agreement. The contractor agrees to the following terms and conditions:

- The first source for finding employees to fill all entry level jobs Created by the eligible project will be the First Source Program.
- The contractor will make every effort to fill 50% of the entry level jobs created by this eligible project with applicants from the First Source Program.
- The contractor shall make good faith effort to reach the goal of this employment agreement.
- Details as to the number and description of each entry level job must me provided with the bid.
- The contractor shall comply with the spirit of the First Source Jobs Policy beyond the duration of this agreement and continue to make good faith attempts to hire employees of similar backgrounds to those participating in the First Source Program.
- The contractor as a condition of transfer, assignment or otherwise shall require the transferee to agree in writing to the terms of the employment Agreement.

Upon a determination that a beneficiary or contractor has failed to comply with the terms of this Agreement, the City may impose the following penalties based on the severity of the non-compliance:

- The City of Atlanta may withhold payment from the contractor.
- The City of Atlanta may withhold 10 percent of all future payments on the contract until the contractor is in compliance
- The City of Atlanta may refuse all future bids on city projects or applications for financials assistance in any form from the City until the contractor demonstrated that the First Source requirements have been met, or cancellation of the eligible project.
- The City of Atlanta may cancel the eligible project.

All terms stated herein can be found in the City of Atlanta Code of Ordinances Sections 5-8002 through 5-8005.

The undersigned hereby agrees to the terms and conditions set forth in this agreement.

_____

Contractor

FORM 6

ATTACHMENT 1

"Components of a Joint Venture Agreement with ACDBE Participation as Counted under 49 CFR 26.55 (b)"

For credit forward toward the contract goal under Part 26, a joint venture agreement with a certified disadvantaged business enterprise should include at a minimum:

- The initial capital investment of each venture partner.
- The proportional allocation of profits and losses to each venture partner.
- The sharing of the right to control the ownership and management of the joint venture.
- A description of the distinct and clearly defined portion of the work to be performed by the ACDBE.
- The method of and responsibility for accounting.
- The methods by which disputes are resolved.
- All other pertinent factors of the joint venture.

ATTACHMENT 2

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
MENTOR PROTÉGÉ INITIATIVES

The mentor-protégé program is an initiative, in accordance with Appendix D to 49 CFR Part 26, to encourage and develop certified Disadvantaged Business Enterprises in contracting with city government in areas that Disadvantaged Business Enterprises have historically been underrepresented due to various discriminatory barriers. This program, implemented on projects with a projected value of 5 million dollars or more, will enable prime contractors of all ethnic and gender categories to provide technical, administrative, and other assistance to smaller, developing businesses. Companies must successfully complete the Disadvantaged Business Enterprise certification process in order to participate as a protégé in this program. Additionally, participation as a certified Disadvantaged Business Enterprise protégé team member will not preclude the inclusion of the same certified Disadvantaged Business Enterprise team member as a self-performing subcontractor in the DBE plan. The subcontracting by the certified Disadvantaged Business Enterprise protégé team member will be applied toward the satisfaction of the DBE goals in accordance with 49 CFR 26, Subpart C, 26.55.

Examples of good faith efforts are found in 49 CFR Parts 23 and 26, Appendix A that is attached to this package.

"Components of a Mentor-Protégé Agreement with DBE Participation as Counted under 49 CFR 26.55"

The Mentor-Protégé agreement between a prime contractor and the DBE protégé will provide an excellent development opportunity for the disadvantaged business enterprise protégé. Under the guidance of the mentor, the protégé will gain valuable knowledge and experience that will ultimately enhance the capabilities of the protégé. Additionally, the protégé has the opportunity to gain this knowledge and experience without exposing itself to the normal business risks that are associated with projects of this size.

As part of the City's Part 26 DBE program and subject to 49 CFR 26.35 and Appendix D, a mentor may meet up to half of the contract goal for this contract by using a DBE protégé as a self performing subcontractor through a formal mentor-protégé program. The successful prime for this project remains obligated to meet the entire contract goal for this project, including whatever portion of the goal that cannot be met by the protégé. Only independent DBE forms already certified by the City at this time (see "Certification", page DBE 2) may participate as protégés.

The mentor may not (1) enter into a mentor-protégé agreement as a substitute for compliance with the DBE program, (2) use such an agreement to circumvent the obligations of the DBE program, (3) create a new firm to serve as a protégé (4) require a potential protégé to pay the mentor for the privilege of participating in the agreement, or (5) bar the protégé from performing work on this contract.

To meet the requirements of Part 26, the mentor-protégé team must present a written development plan and formal agreement between the parties to the City of Atlanta prior to executing the final contract.

The agreement should include, but is not limited to the following information:

- The type of collaboration, training and assistance to be provided. The areas of assistance encouraged include, but are not limited to, bonding and insurance support, management and scheduling support.

- The specific rights and responsibilities of the Mentor and the Protégé.

- Names or titles of the individuals from the Mentor responsible for working directly with the Protégé in the areas identified above.

- Names or titles of the individuals from the Protégé responsible for working directly with the Mentor in the areas listed above.

- The term of the agreement.

- A system to monitor and evaluate the effectiveness of the Mentor Protégé agreement.

- A plan detailing how the Mentor plans to include the Protégé on non-governmental projects, governmental projects, and DOT-assisted projects during the term of the agreement.

- Protege shall not subcontract any of their work to the mentor firm or to other contractors without the approval of the OCC. Subcontracted work will not be counted toward DBE goals except as specified by Part 26.

- Mentor and Protege representatives may not bid or otherwise participate independently on a contract in which the Mentor Protege team is bidding or participating as a team.

- Work self performed by the protégé may be used to fulfill up to one half of the DBE contract goal on this project.

- DBE credit will not be awarded to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé.

- Staff members from the Office of Contract Compliance will be available to review draft mentor-protégé agreements for compliance with this section.

Additional Resources Proponents May Contact in an Effort to Identify DBE Participants

Atlanta Minority Business Development Center
Clem Wilmont
Project Director
1599-A Memorial Drive, SE
Suite 134
Atlanta, GA 30317
Phone: 404-329-4567
E-mail: cwilnot@AtlMBDC.com

Atlanta Public Schools
Carolyn Lyons
Outreach Coordinator
Contract Compliance
1631 La France Street
Atlanta, GA 30307
Phone: 404-371-7130
Fax: 404-371-7126
Email: clyons@atlanta.k12.ga.us

Cobb County
Janice Cook
Department of Transportation
463 Commerce Park Drive, Suite 112
Marietta, GA 30060-2737
Phone: 770-528-3690
Fax: 770-528-4360
Email: janice.cook@cobbcounty.org

Dekalb County
Terry Phillips
Contract Compliance Officer
1300 Commerce Drive
Room 202
Decatur, GA 30030
Phone: 404-371-2737
Email: tgphilli@co.dekalb.ga.us

U.S. Small Business Administration
Dinora Gonzalez
Economic Development Specialist
233 Peachtree Street, NE
Suite 1900
Atlanta, GA 30303
Phone: 404-331-0100 ext. 410
Email: dinora.gonalez-cook@sba.com

Georgia Technology Authority
Thomas Hester
Contracting Officer
100 Peachtree Street
Suite 2300
Atlanta, GA 30303
Phone: 404-463-2339
E-mail: tdhester@gta.ga.gov

Governor's Small Business Center
Gail Webb
Governmental and Outreach
Community Administrator
200 Piedmont Avenue
1306 West Tower
Atlanta, GA 30334
Phone: 404-656-6315
Toll-Free: 800-495-0053
Email: gsbc@doas.ga.gov

Minority Business Development Agency
Sunny Guider
Chief Business Development
401 West Peachtree Street, NW
Suite 1715
Atlanta, GA 30308-3516
Phone: 404-730-3300
Email: sguider@mbda.gov

Gwinnett County
Debra Green
Purchasing Director
75 Langley Drive
Lawrenceville, GA 30045
Phone: 770-822-8720
Fax: 770-822-8735 or 770-822-8728
Email: greende@co.gwinnett.ga.us

APPENDIX B: [RESERVED]

APPENDIX C: ILLEGAL IMMIGRATION REFORM & ENFORCEMENT ACT AFFIDAVITS [RESERVED]

[END OF DOCUMENT]