

A RESOLUTION BY TRANSPORTATION COMMITTEE AUTHORIZING THE MAYOR TO ADD FUNDING TO AGREEMENT FC-5060, OPERATION AND MANAGEMENT OF COMMON USE FACILITIES & EQUIPMENT AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT WITH TBI AIRPORT MANAGEMENT, INC., IN THE AMOUNT OF \$4,240,000 TO INCLUDE A PROJECT TO INSTALL AUTOMATED PASSPORT CONTROL KIOSKS AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT TO BE CHARGED TO AND PAID FROM PTAE0: 18111302 (CONCOURSE PROJECTS) D0290011 (CONC T NORTH OPTIMIZATION) 550291249 (DOA R N E 9999) 5414002 (FACILITIES OTHER THAN BLDGS) AND FDOA: 5502 (AIRPORT RENEWAL & EXTENSION FUND) 180201 (DOA AVIATION CAPITAL PLANNING & DEVELOPMENT) 5414002 (FACILITIES OTHER THAN BLDGS) 7563000 (AIRPORT) 111302 (CONCOURSE PROJECTS) 91249 (DOA R N E); AND FOR OTHER PURPOSES.

Workflow List:

Kristen M. Rectenwald	Completed	04/18/2014 9:48 AM
Finance	Completed	04/18/2014 10:14 AM
Procurement	Completed	04/18/2014 12:11 PM
Miguel Southwell	Completed	04/18/2014 12:45 PM
Adam Smith	Completed	04/18/2014 3:08 PM
Mayor's Office	Completed	04/18/2014 3:26 PM
Office of Research and Policy Analysis	Completed	04/18/2014 3:31 PM
Transportation Committee	Pending	
Atlanta City Council	Pending	
Mayor's Office	Pending	

Certified by Presiding Officer	Certified by Clerk
Mayor's Action	
<i>See Authentication Page Attachment</i>	

LEGISLATION HISTORY – BLUE BACK

A RESOLUTION BY TRANSPORTATION COMMITTEE AUTHORIZING THE MAYOR TO ADD FUNDING TO AGREEMENT FC-5060, OPERATION AND MANAGEMENT OF COMMON USE FACILITIES & EQUIPMENT AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT WITH TBI AIRPORT MANAGEMENT, INC., IN THE AMOUNT OF \$4,240,000 TO INCLUDE A PROJECT TO INSTALL AUTOMATED PASSPORT CONTROL KIOSKS AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT TO BE CHARGED TO AND PAID FROM PTAE0: 18111302 (CONCOURSE PROJECTS) D0290011 (CONC T NORTH OPTIMIZATION) 550291249 (DOA R N E 9999) 5414002 (FACILITIES OTHER THAN BLDGS) AND FDOA: 5502 (AIRPORT RENEWAL & EXTENSION FUND) 180201 (DOA AVIATION CAPITAL PLANNING & DEVELOPMENT) 5414002 (FACILITIES OTHER THAN BLDGS) 7563000 (AIRPORT) 111302 (CONCOURSE PROJECTS) 91249 (DOA R N E); AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) as owner and operator of Hartsfield-Jackson Atlanta International Airport (“Airport”) has undertaken a major expansion at the Airport to facilitate passenger and facility improvements; and

WHEREAS, the Mayor executed an Agreement with TBI Airport Management, Inc. (“TBI”) for Contract FC-5060, Operation and Management of Common Use Facilities & Equipment at Hartsfield-Jackson Atlanta International Airport (the “Contract”) pursuant to Resolution 11-R-1701 adopted by the Atlanta City Council on December 5, 2011 and approved as per City Charter Section 2-403 on December 14, 2011, in an amount not to exceed \$6,812,500.00 For fiscal years 2012 through 2016 from FDOA 5501 (Airport Revenue Fund) 180312 (DOA Aviation Operations) 5213001 (Consulting/Professional Services-Technical) 7563000 (Airport); and

WHEREAS, the Contract authorizes the expansion and contraction of common use facilities and equipment by TBI as needed and determined by the City acting through the Aviation General Manager; and

WHEREAS, the Aviation General Manager has determined it is in the best interests of the Airport to permit the Installation of Automated Passport Control Kiosks (the “Project”); and

WHEREAS, it is necessary to add \$4,240,000.00 In funding to TBI’s Contract for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ATLANTA, GEORGIA, that the funding for the Contract with TBI is modified to add funding in the amount of \$4,240,000.00 For installation of the Automated Passport Control Kiosks.

BE IT FURTHER RESOLVED, that all contracted services for the Project will be charged to and paid from PTAE0: 18111302 (Concourse Projects) D0290011 (Conc T-North Optimization) 550291249 (DOA R N E 9999) 5414002 (Facilities Other Than Bldgs) and FDOA: 5502 (Airport Renewal & Extension Fund) 180201 (DOA Aviation Capital Planning & Development) 5414002 (Facilities Other Than Bldgs) 7563000 (Airport) 111302 (Concourse Projects) 91249 (DOA R N E 9999).

AND FINALLY BE IT RESOLVED, that TBI is expected to reach substantial completion on or before June 1, 2014.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Anita Williams

Contact Number: 404-530-6600

Originating Department: Aviation

Committee(s) of Purview: Transportation

Chief of Staff Deadline: 03/07/14

Anticipated Committee Meeting Date(s): 03/26/14

Anticipated Full Council Date: 04/21/14

Legislative Counsel's Signature: Kristen Rectenwald *Kristen M. Roetenwald*

Commissioner's Signature: [Signature]

Chief Financial Officer: N/A

Chief Information Officer Signature (for IT Procurements) N/A

Chief Procurement Officer Signature: [Signature]

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR TO ADD FUNDING TO AGREEMENT FC-5060, OPERATION AND MANAGEMENT OF COMMON USE FACILITIES & EQUIPMENT AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT WITH TBI AIRPORT MANAGEMENT, INC., IN THE AMOUNT OF \$4,240,000 TO INCLUDE A PROJECT TO INSTALL AUTOMATED PASSPORT CONTROL KIOSKS AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT TO BE CHARGED TO AND PAID FROM PTABO: 18111302 (CONCOURSE PROJECTS) D0290011 (CONC T NORTH OPTIMIZATION) 550291249 (DOA R N E 9999) 5414002 (FACILITIES OTHER THAN BLDGS) AND FDOA: 5502 (AIRPORT RENEWAL & EXTENSION FUND) 180201 (DOA AVIATION CAPITAL PLANNING & DEVELOPMENT) 5414002 (FACILITIES OTHER THAN BLDGS) 7563000 (AIRPORT) 111302 (CONCOURSE PROJECTS) 91249 (DOA R N E); AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: (if any) \$4,240,000

Mayor's Staff Only

Received by CPO: 3/6/14 (date) Received by LC from CPO: _____ (date)
Received by Mayor's Office: [Signature] 3/14/14 (date) Reviewed by: [Signature] (date)
Submitted to Council: _____ (date)

Attachment: TBI Operation & Management Transmittal (14-R-3494 : TBI Operation and Management)

Legislative White Paper

Committee of Purview: Transportation

Caption:

A RESOLUTION AUTHORIZING THE MAYOR TO ADD FUNDING TO AGREEMENT FC-5060, OPERATION AND MANAGEMENT OF COMMON USE FACILITIES & EQUIPMENT AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT WITH TBI AIRPORT MANAGEMENT, INC., IN THE AMOUNT OF \$4,240,000 TO INCLUDE A PROJECT TO INSTALL AUTOMATED PASSPORT CONTROL KIOSKS AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT TO BE CHARGED TO AND PAID FROM PTAE0: 18111302 (CONCOURSE PROJECTS) D0290011 (CONC T NORTH OPTIMIZATION) 550291249 (DOA R N E 9999) 5414002 (FACILITIES OTHER THAN BLDGS) AND FDOA: 5502 (AIRPORT RENEWAL & EXTENSION FUND) 180201 (DOA AVIATION CAPITAL PLANNING & DEVELOPMENT) 5414002 (FACILITIES OTHER THAN BLDGS) 7563000 (AIRPORT) 111302 (CONCOURSE PROJECTS) 91249 (DOA R N E); AND FOR OTHER PURPOSES.

Council Meeting Date: 04/21/14

Legislation Title: TBI Operation and Management

Requesting Dept.: Aviation

Contract Type: Professional Services

Source Selection: N/A

Bids/Proposals Due: N/A

Invitations Issued: N/A

**Number of Bids/
Proposals Received:** N/A

Bidders/Proponents: N/A

Background:

A resolution authorizing the Mayor to add funding to Agreement FC-5060, Operation and Management of common use facilities & equipment at Hartsfield-Jackson Atlanta International Airport with TBI Airport Management, Inc., in the amount of \$4,240,000 to include a project to install automated passport control kiosks at Hartsfield-Jackson Atlanta International Airport.

The scope of this project is to design, procure, install and operate 74 automated passport control kiosks in the Customs and Border Protection (“CBP”) arrival areas. Thirty-eight (38) kiosks will be installed on Concourse E and 36 kiosks will be installed on Concourse F. The kiosks will be certified by the US Customs and Border Protection and will capture and

validate passport data. The kiosks allow passengers to photograph themselves and enter passport and customs data for review by CBP. Once the data is entered into the kiosk, it is sent to CBP's network for validation. Upon validation, a receipt is printed for each passenger entering the country. The receipt is then taken to a CBP Officer, where an entry interview is conducted. All kiosks will be ADA compliant and must meet CBP's Electronic System for Travel Authorization ("ESTA") requirements for visa waiver program processing.

The Automated Passport Control kiosk program is newly approved by the US Customs and Border Protection and is currently available at less than ten US airports. The program allows CBP officers to focus their efforts on law enforcement by letting arriving United States and Canadian Citizens as well as those enrolled in the visa waiver program enter their own data into the CBP database. These kiosks reduce the amount of data entry by CBP officers and have reduced arrival wait times at other airports significantly. It is expected to have measurable benefits at the Airport.

Source of Funds: Aviation Renewal and Extension Fund

Fiscal Impact: \$4,240,000 capital expenditure

Term of Contract: N/A

Method of Cost Recovery: N/A

Approvals:

DOF: yes

DOL: yes

Prepared By: Anita Williams

Contact Number: 404-382-2313

CITY OF ATLANTA
HARTSFIELD-JACKSON ATLANTA
INTERNATIONAL AIRPORT
CONTRACT
FC-5060, OPERATION AND MANAGEMENT
OF COMMON USE FACILITIES AND
EQUIPMENT



KASIM REED
MAYOR
CITY OF ATLANTA

LOUIS E. MILLER
AVIATION GENERAL MANAGER
DEPARTMENT OF AVIATION

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

Attachment: TBI Operation & Management Agreement (14-R-3494 : TBI Operation and Management)

SERVICES AGREEMENT; CONTRACT NO. FC-5060; OPERATION AND MANAGEMENT OF COMMON USE FACILITIES AND EQUIPMENT AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT

This Services Agreement ("Agreement") is entered into this 7th day of May, 2012 (the "Execution Date"), between City of Atlanta ("City") and Service Provider ("Service Provider") set forth below.

Agreement Name: Operation And Management Of Common Use Facilities And Equipment At Hartsfield-Jackson Atlanta International Airport	Agreement No. FC-5060
Service Provider	City of Atlanta
Name: TBI Airport Management, Inc.	Using Agency: Department of Aviation
Address: Hartsfield-Jackson Atlanta International Airport P.O. Box 45838 Atlanta, Georgia 30320	Address: Hartsfield-Jackson Atlanta International Airport 6000 North Terminal Parkway P.O. Box 20509 Atlanta, Georgia 30320
Phone: 404-530-2000	Phone: 404-382-2334
Fax: 404-530-2016	Fax: 404-559-2374
Authorized Representative: John Green	Authorized Representative: H. Jason Terreri

1. Background.

1.1 City desires to obtain from Service Provider the services ("Services") described generally on **Exhibit A** attached hereto and incorporated by reference.

1.2 The compensation payable by City to Service Provider under this Agreement is set forth on **Exhibits A.1 and A.2** attached hereto and incorporated by reference. Monies reimbursed under this Agreement are grouped into 3 categories:

- 1.2.1 Chargeable Operating Costs;
- 1.2.2 Other Indirect Operating Costs; and
- 1.2.3 Management Fee.¹

¹ During each year of the Agreement, an operating budget for that year (to include that year's applicable management fee) will be established by the execution of an Addendum by City's Aviation General Manager and an appropriate representative of Service Provider in accordance with the requirements of this Agreement.

Attachment: TBI Operation & Management Agreement (14-R-3494 : TBI Operation and Management)

2. Term.

2.1 **Initial Term.** Except as expressly provided herein, this Agreement will begin on the Commencement Date and end on the day preceding the fifth anniversary of the Commencement Date. The initial Term of this Agreement will consist of the following partial Agreement Years and 4 Agreement Years

2.1.1 First Partial Agreement Year: Beginning on the Commencement Date and terminating on June 30, 2012;

2.1.2 First Agreement Year: July 1, 2012, through June 30, 2013;

2.1.3 Second Agreement Year: July 1, 2013, through June 30, 2014;

2.1.4 Third Agreement Year: July 1, 2014, through June 30, 2015; and

2.1.5 Fourth Agreement Year: July 1, 2015, through June 30, 2016.

2.1.6 Last Partial Agreement Year: July 1, 2016, through the day preceding the fifth anniversary of the Commencement Date.

2.2 This initial term of the Agreement and any renewal term(s) are collectively referred to as the "Term".

2.3 **Renewal Terms.** City will have the right in its sole discretion to renew this Agreement for 1 additional 3 year term according to the following procedure:

2.3.1 If City desires to exercise its option to renew, it will submit legislation authorizing such renewal for consideration by City's Council and Mayor prior to the expiration of the initial Term.

2.3.2 If such legislation is enacted, within 10 days of such enactment, City will notify Service Provider of such renewal, at which time Service Provider will be bound to provide Services during such renewal Term, without the need for the Parties to execute any further documents evidencing such renewal, it being acknowledged by Service Provider that its initial execution of this Agreement is deemed its agreement to continue to provide Services during the renewal Term.

2.3.3 The 3 -year renewal term will run for three years beginning on the fifth anniversary of the Commencement Date.

3. Interpretation.

3.1 All capitalized terms used in this Agreement will have the meanings ascribed to them in the Agreement Documents and on Exhibit B attached hereto and incorporated by reference.

3.2 If there is a conflict between any of the Agreement Documents, precedence will be given in the following order:²

- 3.2.1 Agreement;
- 3.2.2 Exhibit A-Services;
- 3.2.3 Exhibit A.1-Cost Proposal;
- 3.2.4 Exhibit A.2-Additional Compensation Terms;
- 3.2.5 Exhibit B-Definitions;
- 3.2.6 Exhibit D-City Security Policies;
- 3.2.7 Exhibit E-Dispute Resolution Procedures;

- 3.2.9 Exhibit F – Service Provider Telephone Account Listing
- 3.2.10 Appendix A-Office of Contract Compliance Requirements;
- 3.2.11 Appendix B-Insurance and Bonding Requirements;
- 3.2.12 Appendix C-Illegal Immigration Reform and Enforcement Act

Forms;

3.2.13 Appendix D-First Agreement Year Operating Budget and any subsequent Agreement Year Operating Budgets; and

3.2.14 Additional Agreement Documents, including documents required to be prepared and agreed to between the Parties subsequent to the Execution Date.

4. Services.

4.1 **Description of Services.** Service Provider agrees to provide to City the Services set forth on **Exhibit A** in accordance with the terms of the Agreement Documents. If any services to be performed are not specifically included on Exhibit A, but are reasonably necessary to accomplish the specifically described Services, they will be deemed to be implied in the scope of the Services to the same extent as if specifically described on **Exhibit A**. This section is intended to encompass only incidental activities reasonably foreseeable by Service Provider and is not intended to authorize changes to the scope of Services other than as described in Section 4.3.

4.2 **Resources.** Unless otherwise expressly provided in this Agreement, all items, including the Common Use Equipment and Service Provider Personnel required for the proper performance of Services, must be furnished by and/or be under the control of Service Provider. Service Provider will be responsible for procuring and using such resources, as provided in this Agreement, in proper and qualified and high quality working and performing order.

² For purposes of this provision, authorized changes to an item listed in the order of precedence pursuant to a change document take precedence over the particular item changed.

4.3 **Change Documents.**

4.3.1 This Section will govern any changes to the Agreement. Changes in the Services or other aspects of this Agreement must be made by written document.³ All changes must be implemented pursuant to this Section 4.3 and any Applicable Law.

4.3.2 Potential change documents that may be issued concerning this Agreement include, but are not limited to:

a. change documents to the Agreement involving an increase to any amounts payable to Service Provider pursuant to this Agreement executed between City and Service Provider, which may or may not require legislative approval under Code Section 2-1292;

b. change documents to the Agreement involving no increase to the amounts payable to Service Provider pursuant to this Agreement executed pursuant to Code Section 2-1292(d) either bilaterally or unilaterally by City.

4.3.3 City may propose a change in the Services or other aspects of this Agreement by delivering written notice to Service Provider describing the requested change ("Change Request"). Within ten (10) days of receipt of City's Change Request, Service Provider must evaluate it and submit a written response ("Proposed Change Document"). For the avoidance of doubt, Service Provider may reject a Change Request where such Change Request would, in its reasonable opinion, result in an increase in the scope of the Services.

4.3.4 Service Provider may, without receiving any Change Request, on its own submit a Proposed Change Document describing its own proposed requested change to the Agreement.

4.3.5 Each Proposed Change Document must include the applicable schedule for implementing the proposed change, any applicable changes to the amounts payable to Service Provider (either increased or decreased) pursuant to this Agreement, if any, and all other information applicable to the proposed change. Each Proposed Change Document will constitute an offer by Service Provider and will be irrevocable for a period of sixty (60) days or such shorter period if, as applicable, an opportunity lasts for less than sixty (60) days and Service Provider informs City of such shorter time period in the Proposed Change Document. City will review and may provide Service Provider with comments regarding a Proposed Change Document and Service Provider must respond to such comments, if any. A Proposed Change Document from Service

³ Change Documents may assume numerous forms and titles depending on the nature of the change involved (e.g. Change Order, Unilateral Change Order, Amendment, Agreement Modification, Renewal, etc.).

Provider will become effective only when executed by an authorized representative of City.

4.3.6 City may also propose any changes to the Agreement that it contends do not involve an increase to any amounts payable to Service Provider pursuant to this Agreement. Service Provider must, in good faith, evaluate such proposed Change Request; however, Service Provider may reject any proposed Change Request which would, in its reasonable opinion, result in an increase in the scope of the Services. If City and Service Provider are able to reach agreement on such Change Request, each will execute a change document concerning such Change Request pursuant to Code Section 2-1292(d).

4.3.7 Nothing in this Agreement will, in the event of disagreement between City and Service Provider concerning a proposed Change Request, or otherwise, prohibit City from issuing a unilateral change document to Service Provider, pursuant to Code Section 2-1292(d) ("Unilateral Change Document") and City and Service Provider agree to first attempt to resolve their dispute pursuant to the Dispute Resolution Procedures set forth in **Exhibit E**. During the pendency of such dispute, Service Provider must continue to perform the Services, as changed by such Unilateral Change Document, and City must continue to pay Service Provider for such Services at the pre-dispute rate, provided that Service Provider shall be entitled to compensation for resolved disputes at the agreed upon rate retroactive to the effective date of the Unilateral Change Document unless otherwise agreed by the parties in writing as part of the resolutions of the dispute.

4.4 **Suspension of Services.** City may, by written notice to Service Provider, suspend at any time the performance of any of the Services to be performed under this Agreement. Upon receipt of a suspension notice, Service Provider must, unless the notice requires otherwise: (a) discontinue suspended Services on the date and to the extent specified in the notice, which shall not be less than 72 hours from Service Provider's receipt of the notice; (b) place no further orders or subcontracts for materials, services or Facilities with respect to suspended Services, other than to the extent required in the notice; and (c) take any other reasonable steps to minimize costs associated with the suspension. Service Provider's Management Fee shall be reduced in proportion to the value of the suspended services during any such suspension; however, notwithstanding the foregoing, the Management Fee shall not be less than the guaranteed minimum fee as set forth in **Exhibit A.1** unless such suspension results from Service Provider's failure to faithfully perform the suspended Services prior to the suspension date, in which case the guaranteed minimum shall not apply.

5. **Service Provider's Obligations; Personnel.**

5.1 **Service Provider Personnel.** Service Provider will be responsible, at a cost to be reimbursed in accordance with the Agreement Documents, for all recruiting, hiring, training, educating and orienting of all Service Provider Personnel, all of whom must be fully qualified and must be authorized under Applicable Law to perform the Services.

5.2 Service Provider Authorized Representative. Service Provider designates Service Provider Authorized Representative named on page 1 of this Agreement ("Service Provider Authorized Representative") and, such Person must: (a) be a project executive and employee within Service Provider's organization, with the information, authority and resources available to properly coordinate Service Provider's responsibilities under this Agreement; (b) serve as primary interface and the single-point of communication for the provision of Services by Service Provider; (c) have day-to-day responsibility and authority to address issues relating to the Services; and (d) devote adequate time and efforts to managing and coordinating the Services.

5.3 Qualifications Records. Upon City's reasonable request, Service Provider will make available to City all relevant records of the education, training, experience, qualifications, work history and performance of Service Provider Personnel.

5.4 Employees and Staffing. Service Provider will provide professional, experienced, well-trained staff, including qualified and trained supervisors and others to assure a high standard of service to fulfill its obligations under the Agreement. Service Provider must develop, implement and maintain a salary/wage structure by job category. Service Provider must use reasonable care to employ and retain employees who are qualified, competent and trustworthy. As a minimum, Service Provider must, prior to hiring an applicant, determine the compatibility of the applicant working in a customer service environment, test each applicant for the presence of illegal drugs and the presence of legal drugs in excess of medically approved standards and examine the applicant's conviction record to determine instances of prior criminal convictions which would disqualify the applicant for the issuance of badging credentials commensurate with the applicant's duties to be performed. Employee background checks must comply with all Applicable Law.

5.5 Staffing Levels. Service Provider must provide Services in accordance with budgeted staffing and salary schedules approved by City's Authorized Representative. Service Provider must obtain City's Authorized Representative's prior written approval for initial staffing levels. Service Provider must advise City of any material changes to initial staffing levels that will have a significant impact on service level or the Operating Budget. Service Provider may not employ or retain in its service any Person reasonably and for good cause found by City's Authorized Representative to be objectionable or unfit for employment. Service Provider must provide City with salary ranges for each of its staffing positions.

5.6 General and Departmental Managers.

5.6.1 Unless otherwise agreed to by City's Authorized Representative, Service Provider must select and appoint one general manager ("General Manager") and departmental managers whose primary responsibility will be the management and coordination of the Services and Service Provider's compliance with its obligations under this Agreement. City's Authorized Representative reserves the right to approve the selection of Service Provider's General Manager and departmental managers. If City's Authorized Representative, acting reasonably, finds a candidate unacceptable, Service Provider must propose another candidate until an acceptable candidate is found.

In the event the General Manager or departmental manager positions become vacant during the Term, Service Provider must follow this approval procedure in filling the vacancy.

5.6.2 The General Manager must be in complete charge of Service Provider's operations at the Airport and must be a qualified and experienced manager vested with full power and authority over Service Provider's operations. The General Manager must be ordinarily available and on-site during regular business hours and, during his or her absence, another City-approved manager must be in charge on-site and available. In addition, the General Manager must be on-site until 10 p.m. on at least one high activity day per month.

5.6.3 Service Provider's management staff must consist of qualified and experienced supervisors.

5.7 **Employee Uniforms; Customer Service.** Front-line employees (customer service agents, etc.) who come into contact with customers must be uniformed and must always wear name tags (first name and initial of last name) while on Airport property while on duty, on break, arriving for work or leaving work. The General Manager and management and administrative office personnel will not be required to wear a uniform or name badge. Uniform standards must be specifically described in the Manual (hereinafter defined). Service Provider must train its employees in customer service according to a program approved by City's Authorized Representative and must require all employees to undergo City-provided customer service training with the objective of providing high-quality public service which is responsive to public inquiries and needs and which minimizes customer complaints.

5.8 **Removal of Personnel Assigned to City Agreement.** Within a reasonable period, but not later than seven (7) days after Service Provider's receipt of notice from City that the continued assignment of any Service Provider Personnel is not in the best interests of City, Service Provider must remove such Service Provider Personnel from the provision of Services under this Agreement. Service Provider will not be required to terminate the employment of such individual. In addition, Service Provider agrees to remove any Service Provider Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Service Provider becomes aware of such misconduct or breach. Service Provider will assume all non-reimbursable costs associated with the replacement of such personnel.

5.9 **Subcontracting.**

5.9.1 Unless specifically authorized in this Agreement, Service Provider will not enter into any agreement with or delegate or subcontract any Services to any Third Party without the prior written approval of City, which will not be unreasonably withheld or delayed. If Service Provider subcontracts any of the Services, Service Provider must: (i) remain City's sole point of contact for the Services; and (ii) be responsible for payment to all subcontractors.

5.9.2 For the avoidance of doubt, neither AATC, Delta Air Lines, Inc. nor any of their affiliated entities, subcontractors or suppliers (the "AATC/Delta Entities") are subcontractors of Service Provider for the purposes of this Agreement and, to the extent that any of the AATC/Delta Entities perform any of the Services set forth in **Exhibit A**, Service Provider will have no liability or responsibility whatsoever for the performance of such Services (including, without limitation, the quality or timing of work provided by any of the AATC/Delta Entities). Service Provider will act only as coordinator and liaison for the AATC/Delta Entities in the performance of such Services.

5.10 Key Service Provider Personnel and Key Subcontractors.

5.10.1 The following Persons are identified by Service Provider as Key Service Provider Personnel in providing the Services under this Agreement:

- a. John Green;
- b. Robert Anderson; and
- c. Don Woods.

5.10.2 The following Persons are identified by Service Provider as Key Subcontractors in providing the Services under this Agreement:

- a. INFAX;
- b. SITA; and
- c. AirServ.

5.10.3 Unless City otherwise instructs pursuant to the terms of this Agreement, Service Provider may not transfer, reassign or replace any Key Service Provider Personnel or Key Subcontractors, except as a result of retirement, voluntary resignation, involuntary termination for cause in Service Provider's sole discretion, illness, disability or death, during the Term of this Agreement without prior written approval from City, which will not be unreasonably withheld or delayed.

5.11 **Conflicts of Interest.** Service Provider must immediately notify City in writing, specifically disclosing any potential or actual conflicts of interests, which arise or may arise during the performance of the Services in the fulfillment of the requirements of the Agreement. City will make a written determination as to whether a conflict of interest actually exists and the actions to be taken to resolve the conflict of interest.

5.12 **Commercial Activities.** Neither Service Provider nor any Service Provider Personnel may establish any commercial activity that generates revenue from the public or issue concessions or permits of any kind to Third Parties for establishing any activities that generate revenue from the public on City property. Service Provider may not install any coin or credit card operated devices such as pay telephones, vending

or amusement machines or devices, nor install or permit commercial advertising signs or any other types of commercial activity that generate revenue from the public without prior written permission of City's Authorized Representative.

6. Use of Facilities.

6.1 Service Provider is granted the use, without charge and in an "as is" condition, of the Facilities during the Term. Service Provider must use the Facilities for purposes consistent with and in furtherance of its duties under the Agreement.

6.2 All Common Use Equipment assigned to Service Provider by City is and will remain the property of City. All such Common Use Equipment is subject to City's inventory control system. An inventory check of all Common Use Equipment will be conducted by the Parties as soon as practical after the Commencement Date to establish starting inventory. An inventory check may also be conducted from time to time throughout the Term. In addition, City's Authorized Representative may authorize or direct Service Provider to purchase additional replacement Common Use Equipment for City as a Reimbursable Expense. Title to such additional replacement Common Use Equipment must vest in City immediately upon purchase. Service Provider must keep all Common Use Equipment in good working order, normal wear and tear excepted. A Common Use Equipment inventory list must be detailed in the Manual and must be updated by Service Provider as necessary to reflect equipment acquisitions and dispositions authorized by City.

6.3 From time to time during the Term, City's Authorized Representative may authorize additions or deletions or modifications to the Facilities. It will not be necessary to amend the Agreement to reflect these additions, deletions or modifications, provided that City's Authorized Representative's approval of the additions, deletions and modifications is issued in writing and the modifications do not result in an increase or decrease in any amounts payable to Service Provider pursuant to this Agreement. Throughout the Term, Service Provider must maintain up-to-date lists showing Common Use Equipment currently assigned to Service Provider.

6.4 Service Provider may not install any software on City-owned computers used in the Facilities nor on computers connected to City's Local Area Network ("LAN") without prior written approval of City's Authorized Representative, which will not be unreasonably withheld or delayed.

7. **Right of Inspection of Facilities by City.** Service Provider must permit City, its agents and employees to enter and view all the Facilities at any time for inspecting, testing, or maintaining such Facilities or for doing any other acts that may be necessary or desirable for the proper operation of the Airport.

8. **City Provided Office Space.** The City shall provide such square footage as is commercially reasonable, in its sole determination, under the circumstances to perform the Services

9. **Operations and Operating Procedures:**

9.1 **Changes in the Scope of Operations.** City may, at any time, make changes concerning the operation of the Airport, as well as other changes to the operation of the Facilities necessary to fulfill the needs of the traveling public or to accommodate changes in the design or use of the Airport. The Parties acknowledge that any such operational changes made pursuant to this Section 9.1 will not change the scope of Services to be provided by Service Provider under this Agreement unless such changes are effected as provided in Section 4.

9.2 **Operations and Procedures Manual.**

9.2.1 Service Provider must provide an Operations and Procedures Manual ("Manual") to City's Authorized Representative within 60 days after the Execution Date, for City's Authorized Representative's review and written approval. The Manual and all revisions to it will be automatically incorporated into and made a part of the Agreement upon its written approval by City's Authorized Representative. The Manual must be provided to City's Authorized Representative in hard copy and in electronic format compatible with the latest version of Microsoft Word or as requested by City's Authorized Representative.

9.2.2 The Manual must also provide all information needed or desirable for employee education on duties and responsibilities, including, but not limited to, the following items:

- a. Company mission statement
- b. Operational overview
- c. Organizational chart
- d. Staffing chart
- e. Position descriptions
- f. Personnel training and policies
- g. Primary operating procedures:
 - (i) Gate scheduling / usage
 - (ii) Ticket counter scheduling/usage
 - (iii) Baggage claim scheduling/usage
 - (iv) Ramp control procedures
- h. Administrative reports
- i. Financial Reports

- j. Financial, auditing and accounting procedures
- k. Home office information
- l. Facility security
- m. Standard operating procedures
- n. Facility and vehicle maintenance
- o. Emergency and safety procedures
- p. Other operating procedures

9.2.3 The Manual must provide basic guidance on policies, practices and procedures covering all aspects of the Services. The Manual and its procedures must be developed by Service Provider based upon its best judgment and must reflect an understanding between Service Provider and City on how the Facilities will be operated. Service Provider must confer with City in its preparation of the Manual and must incorporate all information provided by City into the Manual. The Manual will be updated as necessary.

9.2.4 Service Provider must comply with all of the provisions of the Manual.

9.2.5 The Manual must be kept current by Service Provider throughout the Term as follows:

a. The information in the Manual must be reviewed by the Parties at least annually, unless otherwise agreed by the Parties.

b. Either Party may propose a revision to the Manual and must initiate the proposed revision by sending it to the other Party. Within thirty (30) days of receiving the proposed revision, the non-proposing Party must provide a response. All Manual revisions are subject to the approval of City's Authorized Representative before incorporation into the Manual. Each revision to the Manual must have a revision number and date.

c. In the event of a conflict between the Manual and the Agreement Documents, the Agreement Documents will control.

9.2.6 Each approved Manual change will, upon written approval of City's Authorized Representative, be deemed to be incorporated into the Agreement by reference without need for an amendment.

10. City's Authorized Representative.

10.1 Designation and Authority. City designates City's Authorized Representative named on page 1 of this Agreement ("City's Authorized Representative") who must: (a) serve as primary interface and the single-point of communication for the

provision of Services; (b) have day-to-day responsibility to address issues relating to this Agreement; and (c) to the extent provided under the Code, have the authority to execute any additional documents or changes on behalf of City.

11. Billing & Payment Procedures.

11.1 General.

11.1.1 City will not be obligated to pay Service Provider any amount in addition to that authorized under the Agreement.

11.1.2 In relation to the Services provided under this Agreement, City designates and authorizes Service Provider to act on its behalf with regard to billing Users, collection from Users and other administrative functions, as more specifically described and set forth in Section 7 of Exhibit A. It is the intent of this Agreement that Service Provider shall not be required to use its own funds to pay for Total International Terminal Complex Expenses and Total Domestic Common Use Facilities and Equipment Costs and that all such costs shall be borne by the Users. Further, it is agreed that Service Provider has no responsibility or liability whatsoever for any services which are not performed by Service Provider (or any of its subcontractors) but for which costs are billed to Service Provider by the City, to be charged to User by Service Provider. City will cooperate with and assist Service Provider, as necessary, to ensure the amounts owed by Users are paid in a timely manner. In the event that Service Provider is unable to collect amounts properly due from Users, the legal enforcement of the contractual obligations between the City and the Users related to the payment of such costs shall remain the responsibility of the City.

11.2 Invoicing and Collection of fees from Users.

11.2.1 Service Provider will invoice Users on behalf of City in respect of all Total International Terminal Complex Expenses and Total Domestic Common Use Facilities and Equipment Costs in accordance with the procedures set forth in Section 7 of Exhibit A.

11.2.2 All invoices issued in accordance with Section 11.2.1 above, will, in addition, include the Management Fee payable by Users which Users will pay directly to Service Provider, and then Service Provider will remit to City by the fifteenth (15th) day of each month following collection from User.

11.2.3 Under this Agreement, City provides Service Provider with all reasonable authority to obtain projected flight schedules and projected passenger projections from Users as needed to assist in the preparation of all invoices along with actual flight schedules and passenger counts to determine final actual invoices. In the event such requested projected information is not timely submitted by Users or such requested information is not reasonable in Service Provider's judgment, Service Provider shall use its best professional judgment in determining User's flight and passenger information needed to prepare the invoices.

11.2.4 Should Users fail to pay Service Provider when due any amounts invoiced pursuant to this Section 11.2, Service Provider reserves the right to invoice City directly for such unpaid amounts which shall be payable by City within ninety (90) days of receipt of such invoice.

11.3 **Payment of Management Fee.**

11.3.1 On or before the fifteenth (15th) day of each month, Service Provider will prepare and deliver to City an invoice and statement of monthly expenses in reasonable detail, listing all Reimbursable Expenses incurred during the preceding month and the calculation of the Management Fee due.

11.3.2 City will endeavor to pay Service Provider its Management Fee within fifteen (15) days of receipt of the invoice. If City disagrees with any amount payable it shall follow the procedure set out in Section 11.4.

11.3.3 Within ninety (90) days of the end of each Agreement Year, Service Provider shall provide to City a summary of the actual Reimbursable Expenses incurred during that Agreement Year and the corresponding Management Fee payable. In the event that the summary discloses that the Management Fee should be greater or less than the aggregate Management Fee actually paid by City in that Agreement Year, either (i) City shall endeavor to pay any amount owing to Service Provider within thirty (30) days of receipt of the summary; or (ii) Service Provider shall credit any amount owing to City against the Management Fee as part of the invoice for the month following receipt of the summary.

11.4 **Disputed Invoice.**

11.4.1 If City in good faith disputes any portion of an invoice, City may withhold such disputed amount and notify Service Provider in writing of the basis for any dispute within thirty (30) days of receipt of the invoice. City and Service Provider agree to use all reasonable commercial efforts to resolve any disputed amount in any invoice within thirty (30) days of the date City notifies Service Provider of the disputed amount. If City and Service Provider are unable to reach an agreement the dispute will be determined in accordance with the Dispute Resolution Procedure set out in Exhibit E.

11.4.2 If, at any time, City determines that it has paid Service Provider any monies that Service Provider is not entitled to be paid, City may deduct such monies from any amounts due to be paid to Service Provider under this Agreement or any other agreement between City and Service Provider.

11.5 **Taxes.** Compensation payable to Service Provider is inclusive of all taxes, levies, duties and assessments ("Taxes") of every nature due in connection with Service Provider's performance of the Services as further detailed in Exhibit A.2. Service Provider is responsible for payment of such Taxes to the appropriate governmental authority. If Service Provider is refunded any Tax payments made relating to the

Services, Service Provider must remit the amount of such refund to City within forty-five (45) days of receipt of the refund.

11.6 **No Acceptance of Nonconforming Work.** No payment of any portion of an invoice by City constitutes acceptance of any Services.

12. **Service Provider Representations and Warranties.** As of the Execution Date and continuing throughout the Term, Service Provider warrants to City that:

12.1 **Authority.** Service Provider is duly incorporated or formed, validly existing and is in good standing under the laws of the state in which it is incorporated or formed and is in good standing in each other jurisdiction where the failure to be in good standing would have a material adverse affect on its business or its ability to perform its obligations under this Agreement. Service Provider has all necessary power and authority to enter into and perform its obligations under this Agreement and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary actions on its part. This Agreement constitutes a legal, valid and binding obligation of Service Provider, enforceable against it in accordance with its terms. No action, suit or proceeding in which Service Provider is a party that may restrain or question this Agreement or the provision of Services by Service Provider is pending or threatened.

12.2 **Standards.** The Services will be performed in a workmanlike manner in accordance with the standards imposed by Applicable Law and the practices and standards used in well managed operations performing services similar to the Services.

12.3 **Conformity.** The development, creation, delivery, provision, implementation, testing, maintenance and support of all Services must conform in all material respects to the description of such Services in the Agreement Documents.

13. **Compliance with Laws.**

13.1 **General.** Service Provider will perform the Services in compliance with all Applicable Laws.

13.2 **City's Office of Contract Compliance ("OCC") Programs.** Service Provider must comply with Appendix A and any applicable City OCC Programs, including, but not limited to, City's EBO and EEO Programs and requirements set forth in the Code in the performance of the Services.

13.3 **Consents, Licenses and Permits.** Service Provider will be responsible for, and the compensation payable under the Agreement must include the cost of, obtaining, maintaining and complying with and paying all fees and taxes associated with all applicable licenses, authorizations, consents, approvals and permits required of Service Provider in performing Services and complying with this Agreement.

14. Confidential Information.

14.1 **General.** Each Party agrees to preserve as strictly confidential all Confidential Information of the other Party for two (2) years following the expiration or termination of this Agreement; provided, however, that each Party's obligations for the other Party's Confidential Information that constitutes trade secrets pursuant to Applicable Laws will continue for so long as such Confidential Information continues to constitute a trade secret under Applicable Law. Any Confidential Information that may be deemed Sensitive Security Information by the Department of Homeland Security or any other similar Confidential Information related to security will be considered trade secrets. Upon request by City, Service Provider will return any trade secrets to City. Each Party agrees to hold the Confidential Information of the other in trust and confidence and will not disclose it to any Person except for legal counsel, financial advisors or tax advisors, or use it (directly or indirectly) for its own benefit or the benefit of any other Person other than in the performance of its obligations under this Agreement.

14.2 **Disclosure of Confidential Information or Information Other Party Deems to be Confidential Information.** Each Party will be entitled to disclose any Confidential Information if compelled to do so pursuant to: (i) a subpoena; (ii) judicial or administrative order; or (iii) any other requirement imposed upon it by Applicable Law. Prior to making such a disclosure, to the extent allowed pursuant to Applicable Law, each Party must provide the other with two(2) business days prior notice, by facsimile, of its intent to disclose, describing the content of the information to be disclosed and providing a copy of the pleading, instrument, document, communication or other written item compelling disclosure or, if not in writing, a detailed description of the nature of the communication compelling disclosure with the name, address, phone number and facsimile number of the Person requesting disclosure. Should the non-disclosing Party contest the disclosure, it must: a) seek a protective order preventing such disclosure; or b) intervene in such action compelling disclosure, as appropriate. This Section will be applicable to information that one Party deems to be Confidential Information but the other Party does not.

15. Work Product.

15.1 Except as otherwise expressly provided in this Agreement, all reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables and other Work Product prepared or authored by Service Provider or any of its contractors/subcontractors exclusively for City under this Agreement and all intellectual property rights associated with the foregoing items (collectively, the "Work Product") will be and remain the sole and exclusive property of City.

15.2 City will have the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name or for its own benefit, all patents, copyrights, applications and registrations, renewals and continuations and all other appropriate protection developed exclusively for the City as works made for hire.

15.3 To the extent exclusive title or complete and exclusive ownership rights in any Work Product created by Service Provider Personnel exclusively for the City as works made for hire may not originally vest in City by operation of Applicable Law, Service Provider must, immediately upon request, unconditionally and irrevocably assign and transfer to the City all of its rights, title and interest in the Work Product.

15.4 Without any additional cost to City, Service Provider Personnel must promptly give City all reasonable assistance and execute all documents City may reasonably request to enable City to perfect, preserve, enforce, register and record its rights in all Work Product created exclusively for the City as works made for hire. Service Provider irrevocably designates City as Service Provider's agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Section and to take all actions necessary, in Service Provider's name, with the same force and effect as if performed by Service Provider.

16. Audit and Inspection Rights.

16.1 General.

16.1.1 Service Provider will provide to City and any Person designated by City, access to Service Provider Personnel and to Service Provider owned Facilities for the purpose of performing audits and inspections of Service Provider, Service Provider Personnel and/or any of the relevant information relating to the Services and this Agreement. Such audits, inspections and access may be conducted to: (a) verify the accuracy of invoices; (b) examine Service Provider's performance of the Services; (c) monitor compliance with the terms of this Agreement; and (d) any other matters reasonably requested by City. Service Provider must provide full cooperation to City and its designated Persons in connection with audit functions and examinations by regulatory authorities.

16.1.2 All audits and inspections will be conducted during normal business hours (except with respect to Services that are performed during off-hours).

16.1.3 Service Provider must promptly respond to and rectify all material deficiencies identified by the audit or inspection report by taking such reasonable actions to correct such material deficiencies.

16.1.4 If any audit or inspection of compensation or Services reveals that City has overpaid any amounts to Service Provider, Service Provider must promptly refund such overpayment.

16.1.5 Service Provider shall maintain all records subject to audit or inspection and will make such records available to City or City's designee within three (3) business days of request.

16.2 **Records Retention.** Until the later of: (a) six (6) years after expiration or termination of this Agreement; (b) the date that all pending matters relating to this Agreement (e.g., disputes) are closed or resolved by the Parties; or (c) the date such

retention is no longer required to meet City's records retention policy or any record retention policy imposed by Applicable Law, if more stringent than City's policy, Service Provider will maintain and provide access upon request to the records, data, documents and other information required to fully and completely enable City to enforce its audit rights under this Agreement.

17. Indemnification by Service Provider.

17.1 General Indemnity. Service Provider must indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors and agents, successors and permitted assigns (collectively, "City Indemnitees"), harmless from any losses, liabilities, damages, demands and claims and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:

17.1.1 Service Provider's or Service Provider Personnel's performance, non-performance or breach of this Agreement;

17.1.2 compensation or benefits of any kind, by or on behalf of Service Provider Personnel, or any subcontractor claiming an employment or other relationship with Service Provider or such subcontractor (or claiming that this Agreement creates an inherent, statutory or implied employment relationship with City or arising in any other manner out of this Agreement or the provision of Services by such Service Provider Personnel or subcontractor);

17.1.3 any actual, alleged or threatened violation of any Applicable Laws by Service Provider or Service Provider Personnel, to the extent such claim is based on the act or omission of Service Provider or Service Provider Personnel, excluding acts or omissions by or at the direction of City;

17.1.4 death of or injury to any individual caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider, except to the extent such death or injury is caused by the negligence of City or any Person acting for, in the name of, at the direction or supervision of or on behalf of City; and

17.1.5 damage to, or loss or destruction of, any real or personal property caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider, except to the extent such damage is caused by the negligence of City or any Person acting for, in the name of, at the direction or supervision of or on behalf of City.

17.2 Acting Under City's Direction. Service Provider shall have no obligation to indemnify or hold harmless any City Indemnitee pursuant to Section 17.1 to the extent that any claim or action is caused as a result of action taken by Service Provider at the specific request or direction of the City (provided such action is not otherwise required to be taken by Service Provider under this Agreement) or is the result of the failure by the City to act on a timely basis when the City is required to act by

law or by this Agreement within a fixed time period(unless prevented from doing so by Service Provider).

18. Limitation of Liability.

18.1 **General.** THE MAXIMUM AGGREGATE LIABILITY OF CITY TO SERVICE PROVIDER HEREUNDER IS LIMITED TO THE TOTAL OF THE MANAGEMENT FEE PLUS ALL CHARGES ACTUALLY PAID BY THE CITY DURING THE PRECEDING TWELVE (12) CALENDAR MONTHS UNDER THE AGREEMENT. EXCEPT FOR SERVICE PROVIDER'S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED "INDEMNIFICATION BY SERVICE PROVIDER" AND WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY SERVICE PROVIDER, THE MAXIMUM AGGREGATE LIABILITY OF SERVICE PROVIDER TO CITY HEREUNDER IS LIMITED TO \$25,000,000.00. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (OR ANY COMPARABLE CATEGORY OR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE AND EVEN IF FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

18.2 **Exceptions to Limitations.** The limitations set forth in the immediate Subsection will not apply to: (a) personal injury, wrongful death or property damage; (b) any claim involving a violation of any Applicable Law concerning homeland security, terrorist activity or Sensitive Security Information, regardless of the manner in which such damages are characterized; or (c) the City's obligation to pay invoices pursuant to Subsection 11.2.4 resulting from nonpayment by Users.

19. Insurance and Bonding Requirements. Service Provider must comply with the insurance and bonding requirements set forth on **Appendix B**.

20. Force Majeure. Neither Party will be liable for default or delay in the performance of its obligations under this Agreement to the extent such default or delay is caused by a Force Majeure Event. Upon the occurrence of a Force Majeure Event, the non-performing Party will be excused from performance of affected obligations for as long as: (a) the Force Majeure Event continues; and (b) the Party continues to attempt to recommence performance to the extent commercially reasonable without delay. If any Force Majeure Event continues for one hundred twenty (120) consecutive days, either Party may, at its option during such continuation, terminate this Agreement, in whole or in part, without penalty or further obligation or liability to the other Party.

21. Termination.

21.1 **Termination for Cause.** City and Service Provider may, by giving written notice to the other Party, terminate this Agreement:

- (a) for a material breach of the Agreement Documents by the defaulting Party that is not cured by the defaulting Party within fifteen (15) business days of the date on which written notice of such breach is provided by the non-defaulting Party to the defaulting Party; or
- (b) immediately for a breach of the Agreement Documents by the defaulting Party that is not reasonably curable within fifteen (15) business days; or
- (c) immediately upon written notice for numerous breaches of the Agreement Documents by the defaulting party that collectively constitute a material breach or reasonable grounds for insecurity concerning the defaulting Party's performance; or
- (d) immediately for the defaulting Party's engagement in actions that are fraudulent or that constitute a conflict of interest with the defaulting Party's obligations under this Agreement or is in violation of any City ethics ordinances or similar Applicable Law.

21.2 Termination by City for Insolvency. City may terminate this Agreement immediately by delivering written notice of such termination to Service Provider if Service Provider: (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.

21.3 Termination by City for Convenience. At any time during the Term of this Agreement, City may terminate this Agreement for convenience upon one hundred twenty (120) days written notice of such termination, effective as of the date specified in the written notice, and, in such event, City shall pay to Service Provider, as Service Provider's sole remedy for such termination for convenience, a termination payment equal to the sum of three (3) months' installments of the Management Fee, based upon the average monthly Management Fee paid to Service Provider by City during the preceding twelve (12) calendar months. Upon a termination for convenience, Service Provider waives any claims for damages, including loss of anticipated profits. In addition, City will pay all Reimbursable Expenses for the Services properly performed prior to the notice of termination, plus all reasonable costs for Services performed after the termination, as specified in such notice, and reasonable administrative costs of settling and paying claims arising out of the termination of Services under purchase orders or subcontracts except to the extent any products under such purchase orders or subcontracts can be used by Service Provider in its business within the thirty (30) days following termination. If requested, Service Provider must substantiate such costs with proof satisfactory to City.

21.4 Termination for Lack of Appropriations. If, during the Term of this Agreement, legislation establishing amounts payable to Service Provider pursuant to this Agreement for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the applicable Agreement Year for which amounts payable to Service Provider pursuant to this Agreement has been legislatively authorized.

21.5 Effect of Termination. Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, will 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 or under Applicable Laws. Upon termination of this Agreement by City, Service Provider must: (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) as soon as is reasonably practicable, but not to exceed 72 hours from the effective time of termination unless otherwise agreed in writing by the Aviation General Manager, inventory, maintain and turn over to City all Work Product, licenses, equipment, materials, plant, tools and property furnished by Service Provider or provided by City for performance of the terminated Services; (iii) to the extent possible, 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.

21.6 Obligations Upon Expiration or Termination.

21.6.1 Final Accounting. Upon expiration or termination of this Agreement for any reason, Service Provider shall deliver to City a final accounting within ninety (90) days after such expiration or termination detailing any amounts owed to Service Provider in respect of unpaid Total International Terminal Complex Expenses, Total Domestic Common Use Facilities and Equipment Costs and Management Fee, or any excess amounts of Total International Terminal Complex Expenses, Total Domestic Common Use Facilities and Equipment Costs and Management Fee collected by Service Provider. Any undisputed amounts owed to either Party will be paid within 30 days of receipt of the final accounting.

21.6.2 Reimbursement for Costs. On the expiration or termination of this Agreement, City shall reimburse Service Provider for costs incurred by Service Provider as a result of any expiration or termination of this Agreement, including without limitation (i) all employee benefit costs, pension costs and severance costs incurred by Service Provider; and (ii) the cost of terminating any service contracts or contracts for the supply or leasing of equipment or other supplies.

21.6.3 City's Duties on Expiration or Termination. On the expiration or termination of this Agreement, City shall forthwith:

a. Pay to Service Provider all amounts owing to Service Provider pursuant to this Agreement;

b. Pay for and indemnify and save Service Provider harmless from and against the cost of all services, materials and supplies ordered by Service Provider in accordance with the provisions of this Agreement but which may not have been charged to and paid by Service Provider at the time of expiration or termination; and

c. At its discretion, assume any leases and contracts entered into by Service Provider on behalf of City and indemnify Service Provider, to the extent allowable by applicable law, against any liability by reason of anything done or required to be done under any such lease or contract after the expiration or termination of this Agreement provided that any such lease or contract has been entered into in accordance with this Agreement.

22. Dispute Resolution. All disputes under the Agreement Documents or concerning Services must first follow the resolution procedures under this Section and Exhibit E prior to a lawsuit being filed. Both Parties must continue performing under this Agreement while the Parties are seeking to resolve any such dispute unless, during that time, this Agreement is terminated or expires. A dispute over payment will not be deemed to preclude performance by Service Provider.

23. General.

23.1 Applicable Law. The Agreement Documents will be governed by and construed in accordance with the substantive laws of the State of Georgia without regard to its choice of law principles.

23.2 Jurisdiction and Venue. The Parties submit and consent to the exclusive jurisdiction of the State of Georgia courts of Fulton County, Georgia or in the United States District Court for the Northern District of Georgia and irrevocably agree that all actions or proceedings relating to this Agreement will be litigated in such courts and each of the Parties waives any objection which it may have based on improper venue or forum *non conveniens* to the conduct of any such action or proceeding in such court.

23.3 Notices. Any notice under this Agreement must be in writing and sent to the respective Party at the address on page 1 of this Agreement, or, if applicable, to City's Department of Procurement at 55 Trinity Avenue, Suite 1790, Atlanta, Georgia, 30303; or, if to Service Provider, to the address on Page B-1, with a copy to TBI Airport Management, Inc., Orlando Sanford International Airport, 3212 Red Cleveland Blvd, Sanford, Florida 32773 and will be deemed delivered: (a) when delivered by hand or courier or by overnight delivery with signature receipt required; (b) when sent by confirmed facsimile with a copy sent by another means specified in this Section; or (c) three (3) days after the date of mailing by United States certified mail, return receipt

requested, postage prepaid. Any Party may change its address for communications by notice in accordance with this Section.

23.4 **Waiver**. Any waiver by the Parties or failure to enforce their rights under this Agreement will be deemed applicable only to the specific matter and will not be deemed a waiver or failure to enforce any other rights under this Agreement and this Agreement will continue in full force and effect as though such previous waiver or failure to enforce any rights had not occurred. Except as otherwise provided herein, no supplement, modification, amendment or waiver of this Agreement will be binding unless executed in writing by City's Authorized Representative and Service Provider Authorized Representative.

23.5 **Assignment**. Neither this Agreement, nor any rights or obligations under it, are assignable in any manner without the prior written consent of the other Party and any attempt to do so without such written consent will be void ab initio.

23.6 **Publicity**. Service Provider may not make any public announcement, communication to the media, take any photographs or release any information concerning City, the Services or this Agreement without the prior written consent of City.

23.7 **Severability**. In the event that any provision of this Agreement is declared invalid, unenforceable or unlawful, such provision will be deemed omitted and will not affect the validity of other provisions of this Agreement.

23.8 **Further Assurances**. Each Party must provide such further documents or instruments required by the other Party as may be reasonably necessary to give effect to this Agreement.

23.9 **No Drafting Presumption**. No presumption of any Applicable Law relating to the interpretation of contracts against the drafter will apply to this Agreement.

23.10 **Survival**. Any provision of this Agreement which contemplates performance subsequent to any termination or expiration of this Agreement or which must survive in order to give effect to its meaning, will survive the expiration or termination of this Agreement.

23.11 **Independent Contractor**. Except as otherwise provided herein, Service Provider is an independent contractor of City and nothing in this Agreement will be deemed to constitute Service Provider and City as partners, joint venturers, or principal and agent, or be construed as requiring or permitting the sharing of profits or losses. Neither Party has the authority to represent or bind or create any legal obligations for or on behalf of the other Party.

23.12 **Third Party Beneficiaries**. This Agreement is not intended, expressly or implicitly, to confer on any other Person any rights, benefits, remedies, obligations or liabilities.

23.13 **Cumulative Remedies.** Except as otherwise provided herein, all rights and remedies under this Agreement are cumulative and are in addition to and not in lieu of any other remedies available under Applicable Law, in equity or otherwise.

23.14 **Entire Agreement.** The Agreement Documents contain the entire agreement of the Parties relating to their subject matter and supersede all previous communications, representations or agreements, oral or written, between the Parties with respect to such subject matter. This Agreement may only be amended or modified by a writing executed by each Party's authorized representative and each such writing will be deemed to incorporate the Agreement Documents, except to the extent that City is authorized under Applicable Law to issue Unilateral Change Documents. SERVICE PROVIDER MAY NOT UNILATERALLY AMEND OR MODIFY THIS AGREEMENT BY INCLUDING PROVISIONS IN ITS INVOICES, OR OTHER BUSINESS FORMS, WHICH WILL BE DEEMED OBJECTED TO BY CITY AND OF NO FORCE OR EFFECT.

The Parties, by their authorized representatives, have executed this Agreement as of the Execution Date.

City of Atlanta

Mayor

Municipal Clerk (Seal)

Approved:

Aviation General Manager

Chief Procurement Officer

Approved as to form:

Kimberly Patrick

Senior Assistant City Attorney

TBI Airport Management, Inc.

By:

Name:

Title:

Corporate Secretary/Assistant Secretary (Seal)

Digitally signed by Kimberly Patrick
DN: cn=Kimberly Patrick, o=Law-Aviation, ou=Law-Aviation, email=kimberly.patrick@atlanta-airport.com, c=US
Date: 2012.04.20 17:27:07 -0400

Attachment: TBI Operation & Management Agreement (14-R-3494 : TBI Operation and Management)

EXHIBIT A; SCOPE OF SERVICES

Services generally include:

- Daily scheduling of Common Use Gates, baggage claim facilities, and ticket counters;
- Using the Ascent Technologies SmartAirport Operations Center system for scheduling;
- Updating and maintaining the MUFIDS, BIDS and other public information displays and associated equipment at security screening checkpoints;
- Provide customer service and foreign language assistance;
- Provide ramp control service for aircraft on ramps 3, 4 and 9.
- Provide gate management for aircraft at designated International Terminal Complex Gates;
- Inspecting and maintaining equipment before/after Air Carrier use;
- Inspecting and maintaining jet-ways, conveyors, carousels and ramp areas;
- Coordinating irregular operations;
- Developing and managing the security program associated with Service Provider's managed areas;
- Daily scheduling of Air Carriers' baggage claim facilities assignments;
- Coordinating the clearing of baggage jams on carousels and belts;
- Preparing monthly invoices, reports and annual budgets;
- Coordinating with suppliers for equipment/Facilities repairs; and
- Assisting customers with Gate, ticket counter and baggage claim information.
- Managing the installation, operation, and maintenance of all SITTA Common Use Equipment.

More detail concerning the Services follow:

A. GENERAL SERVICES: Service Provider must provide comprehensive Services for the safe and efficient operation of the International Terminal Complex and the Domestic Common Use Facilities and Equipment at the Airport in accordance with the requirements of the Agreement, the Manual, DOA Common Use Protocol Regulations, and as directed by City's Authorized Representative. Service Provider must provide prompt, courteous and high-quality service to Airport patrons at all times. Service Provider must ensure that the operation is managed in a manner acceptable to City's Authorized Representative and that clean, safe, efficient, attractive, high-quality Facilities and Services are provided to Airport patrons. The operation, management and maintenance of Facilities includes, but is not limited to the following:

1. The International Terminal Complex;
2. Designated Domestic Common Use Gates;

3. Common Use ticket counter positions as designated by City;
4. Common Use baggage claim facilities as designated by City;
5. MUFIDS and other public information displays and associated equipment at security screening checkpoints; and
6. Any other public Common Use Facilities that may be added in the future.

B. SPECIFIC SERVICES:

1. Required Meetings.

- 1.1 **Participation in DOA Meetings.** Service Provider must meet not less than every two weeks with the DOA staff and report on all activities as directed by City's Authorized Representative. Service Provider must also participate in construction activity coordination meetings, safety meetings, meetings with the Transportation Security Administration ("TSA") and DOA audit and risk management meetings.
- 1.2 **Monthly Meetings.** Service Provider will organize, host, and facilitate a monthly meeting of all Users and support agencies using the Facilities. At a minimum, attendance will include senior management personnel from Service Provider, Air Carriers, federal agencies, concessions, TSA, and customer service.

2. Scheduling, Ramp, and Gate Control. Service Provider must:

- 2.1 schedule designated Gates, ticket counters and Baggage claim Facilities using the SmartAirport Operations Center suite of software products manufactured by Ascent Technology, presently in use at the Airport. Service Provider will coordinate all scheduling activities with the Air Carriers in accordance with the DOA Common Use Protocol Regulations.
- 2.2 operate and maintain three PlaneMate mobile lounges (1991 model "Airside Systems People Movers") as needed to transport passengers to and from aircraft parked at remote positions. Service Provider will also provide driver/operators to assist the evacuation of passengers that may be stranded by emergency events and/or as directed by City. Passengers can be safely removed from AOA movement areas and delivered to any concourse or terminal.
- 2.3 manage the operation of six aircraft hardstands. Service Provider will be responsible for the operation and staffing of four COBUS 3000 vehicles (busses) used to transport passengers to and from the aircraft hardstands and concourses. Operational hours to be identified in the Operations Plan.

- 2.4 prepare and submit monthly financial and operational reports in a format approved by City's Authorized Representative detailing hardstand operations.
- 2.5 Coordinate with U.S. Customs and Border Protection ("CBP") regarding baggage assignments and the movement of arriving international passengers.
- 2.6 adequately staff the ramp control towers with qualified and experienced personnel to provide:
 - 2.6.1 safe ramp management and control functions for Ramps 3, 4 and 9;
 - 2.6.2 monitoring functions for Ramps 5, 6 and 8.
- 2.7 Update MUFIDS with flight information for Air Carriers not providing a data feed to MUFIDS.
- 2.8 Ensure the cleanliness of Ramps 5, 6, 8 & 9 and all Common Use areas regarding foreign object debris ("FOD") control and routine ramp sweeping. Inspect and report pavement condition problems to DOA.

3. Facility Operations. Service Provider must:

- 3.1 develop a written security and emergency plan in cooperation with City
- 3.2 using the SmartAirport Operations Center suite of software products manufactured by Ascent Technology, schedule and assign Common Use baggage claim facilities and ticket counters for Air Carriers.
- 3.3 provide qualified personnel to monitor the Common Use baggage claim facilities and ticket counters to ensure accuracy of information, equipment condition and cleanliness and to assist customers.
- 3.4 coordinate the routine inspection and repair of all Facilities.
- 3.5 Monitor security systems and respond to all SIDA door alarms located within Service Provider's managed areas. Submit reports to City detailing all alarms, response time, and action taken to resolve alarm, as directed by City's Authorized Representative.
- 3.6 coordinate employee bus transportation services.

- 3.7 transport international trash collected from the Federal Inspection Service ("FIS") area to the sterilization point. CBP and United States Department of Agriculture trash from international flights is collected per USDA guidelines and is transported to a location on the Airport for sterilization.
- 3.8 coordinate the maintenance of physical components of the International Terminal Complex which includes, common area HVAC systems, indoor and outdoor lighting, utilities, floors, walls, elevators, escalators, doors, windows and housekeeping. Any and all components of the Facility that make up any of the Common Use areas are the responsibility of Service Provider. As such, Service Provider will use skilled contractors/subcontractors to repair structural damages, system failures, mechanical malfunctions or any malady that may occur. Service Provider shall coordinate with AATC when possible for AATC to provide Services that are within AATC's scope. Services that AATC cannot provide or provide in a timely fashion should be performed by skilled off-site contractors/subcontractors. Examples of such systems include:
- 3.8.1 MUFIDS, BIDS and other public information displays and associated equipment at security screening checkpoints;
 - 3.8.2 CCTV, Communication Consoles & PA Systems
 - 3.8.3 Housekeeping
 - 3.8.4 Aircraft loading bridges, conveyors and carousels Concourse D, E& F
 - 3.8.5 Rollup security doors
 - 3.8.6 Ramp & apron sweeper service
 - 3.8.7 Baggage scale calibration
 - 3.8.8 SITA-CUTE equipment
 - 3.8.9 Ascent Technologies-ARIS Gate Manager
 - 3.8.10 Air-to-ground transceivers
 - 3.8.11 Keys and locking mechanisms
 - 3.8.12 Telephones

4. Passenger Facilitation. Service Provider must:

- 4.1 Provide multi-lingual customer service staffing throughout the International Terminal Complex to include information counter(s), CPB areas, baggage re-check to provide world class passenger information and assistance.
- 4.2 Provide language interpreters as required to assist CBP agencies in processing international passengers to assist foreign language passengers. Interpreters will, at a minimum, be fluent in the

languages common to the countries served through the International Terminal Complex.

- 4.3 promptly investigate and resolve all claims made for losses or damages and complaints about service and furnish City's Authorized Representative with a copy of the complaint or claim, Service Provider's documentation of its investigation of the complaint or claim and its written response.
- 4.4 maintain a computer database of compliments and complaints which must be submitted monthly to City's Authorized Representative.
- 4.5 document and place in Airport lost and found, whether managed by City, AATC, or otherwise, within 24 hours, all lost articles found by Service Provider or provided to Service Provider by Airport patrons.
- 4.6 Develop and implement an approved Customer Service Plan.

5. Information Systems Management. Service Provider must:

- 5.1 operate and maintain all required information and systems, including:
 - 5.1.1 Ascent SmartAirport software / hardware system
 - 5.1.2 Designated MUFIDS and equipment
 - 5.1.3 Designated BIDS and equipment
 - 5.1.4 Designated Concourse Mid-point Electronic Signage
 - 5.1.5 Designated International Terminal Complex Electronic Signage
 - 5.1.6 Designated Jetway LED signage
- 5.2 provide and maintain the necessary computer hardware and software, including the acquisition and maintenance of any site licenses to operate the Common Use Equipment. All Services must be approved and verified by DOA before procurement or installation.
- 5.3 where possible, enable the monitoring of all IT hardware and software by allowing DOA-ISD to monitor equipment status from the DOA Network Operations Center.
- 5.4 provide uptime reports for all IT hardware and software systems as determined by DOA-ISD.

5.5 Operate, maintain and update the SITA software and hardware used in Common Use devices.

6. Maintenance. Service Provider must:

6.1 Preventive Routine Maintenance.

6.1.1 develop with subcontractors and follow a Preventive Maintenance Program for all Facilities in accordance with manufacturer's suggested requirements, subject to review and approval of City.

6.1.2 coordinate the cleaning and maintenance of all Facilities (through: AATC (where possible); Service Provider's own resources; Air Carriers; or other contractors/subcontractors or suppliers) to include, but not be limited to:

6.1.2.1 Aircraft loading bridges, conveyors and carousels;

6.1.2.2 Aircraft servicing equipment (power, preconditioned air, fueling, provisioning and water cabinets);

6.1.2.3 Passenger holdrooms and waiting areas;

6.1.2.4 In-transit lounges (if allowed by CBP);

6.1.2.5 Corridors, restrooms and other public area; and

6.1.2.6 Apron and Gate control tower and other Facilities.

6.1.3 coordinate the snow clearance of all Facilities (through: AATC (where possible); Service Provider's own resources; Air Carriers; or other contractors/subcontractors or suppliers) to include, but not be limited to:

6.1.3.1 Aircraft parking positions at the International Terminal Complex;

6.1.3.2 Domestic Common Use gates, as designated by the City;

6.1.3.3 FIS Parking Lot.

6.1.4 Conduct and document regular inspections of all Facilities to determine maintenance needs.

- 6.1.5 Coordinate responses to all maintenance needs and requests.
- 6.1.6 maintain and keep in a state of good repair the Facilities and provide a high level of cleanliness of the Facilities at the Airport.
- 6.2 **Compliance and Warranties.** perform maintenance, servicing and repairs of Facilities covered by warranties (other than those held by any of the AATC/Delta Entities) according to the terms and conditions of such warranties and promptly enforce all applicable warranties, as necessary.
- 6.3 **Maintenance Records.** keep detailed records of preventive maintenance and/or repairs to Facilities not performed by any of the AATC/Delta Entities and make such records available for inspection by City during normal working hours. The maintenance record must include, as a minimum, the date of repair and/or maintenance, the nature of the repair and/or maintenance, the cost and parts involved and the number of labor hours expended for the repair and/or maintenance.
- 6.4 **Locks.** use City's Best Lock keying system for all doors and entrances to the Facilities and mechanical room entrances assigned to Service Provider. Service Provider will be responsible for the assignment of all keys according to a key control plan, which will require the approval of City's Authorized Representative.
- 6.5 **Vehicle Maintenance.**
- 6.5.1 maintain in good repair and safe working order all vehicles assigned and/or leased to Service Provider for its use under the Agreement. In this regard, the Manual must include preventive maintenance schedules, vehicle maintenance procedures and Service Provider must perform such maintenance for all vehicles in accordance with the Manual.
- 6.5.2 operate and maintain the three 1991 model "Airside Systems People Movers" mobile lounges and four COBUS 3000 vehicles designed to transport passengers to and from aircraft parked at remote positions. The PlaneMate and COBUS vehicles must receive preventive maintenance in accordance with the manufacturers' recommendations for City-purchased equipment maintained by Service Provider.

6.5.3 Service Provider must comply with the following:

6.5.3.1 All vehicles must be kept in safe, sanitary and good operating condition.

6.5.3.2 Maintenance, servicing and repairs of the vehicles covered by warranties must be performed according to the terms and conditions of such warranties. Service Provider must promptly enforce all applicable warranties, as necessary.

6.5.3.3 Service Provider must institute a daily inspection program of the vehicles and must, subject to budget approval, promptly repair or have repaired any damage. If such repair is not within the approved budget, Service Provider will remove the vehicle from operation. Service Provider must immediately remove any damaged or defective vehicle from operation that may affect the safety and comfort of drivers or passengers and, subject to budget approval, repair or have repaired any such damage or defect.

6.6 Maintenance Records. keep detailed records of preventive maintenance and/or repairs to vehicles and make such records available for inspection by City during normal working hours. The maintenance record must include, as a minimum, the date of repair and/or maintenance, the nature of the repair and/or maintenance, the cost and parts involved and the number of labor hours expended for the repair and/or maintenance.

7 Financial and Administrative Management.
Service Provider must:

7.1 on behalf of City prepare and invoice Users in respect of their use of the Facilities pursuant to this Agreement. Service Provider will review not less than annually with City (or as requested by City) proposed costs to be billed in advance. Billing procedures are as follows:

7.1.1 Total International Terminal Complex Expenses.

7.1.1.1 Service Provider will determine, on a quarterly basis, the estimated Total International Terminal Complex Expenses payable by Users based on the approved Operating Budgets or updated cost estimates, as applicable, as determined by Service Provider. Such estimates will be invoiced to Users on a quarterly basis in advance of operations and shall be payable by Users on a monthly basis. At the end of each quarter Service Provider will prepare a reconciliation in sufficient detail regarding operational data, actual Total International Terminal Complex Expenses and estimated Total International Terminal Complex Expenses for the preceding quarter. Should the actual Total International Terminal Complex Expenses exceed that of the estimated Total International Terminal Complex Expenses invoiced to Users, then an additional billing will be issued to Users by Service Provider to reflect any additional amounts owed. Should the actual Total International Terminal Complex Expenses be less than the estimated Total International Terminal Complex Expenses invoiced to Users a credit will be issued to reflect the amount owed to Users. Service Provider reserves the right to make administrative rules and regulations in regard to invoices issued to Users pursuant to this Agreement such as requiring deposits and/or charging late fees on unpaid invoices, subject to City's approval which approval shall not be unreasonably withheld or delayed.

7.1.1.2 on a quarterly basis, Service Provider shall make available to City documentation of sufficient detail regarding operational data and expenses to enable City to determine whether Service Provider has properly invoiced Users in accordance with Section 7.1.1.1 above.

7.1.2 Total Domestic Common Use Facilities and Equipment Costs.

- 7.1.2.1 Service Provider will, on a quarterly basis and in advance of operations, prepare and invoice Users in respect for Total Domestic Common Use Facilities and Equipment Costs at rates supplied and approved by City. Invoices are payable monthly. Service Provider will review not less than annually with City the proposed rates and adjust invoices as applicable after City approval.
- 7.1.2.2 on a quarterly basis, Service Provider will provide supporting information of sufficient detail regarding operational data and expenses. As part of the supporting information to be supplied, Service Provider will make available to City detailed information for each User specifying the specific usage (number of passengers, amount of ticket counter hours, quantity of baggage, etc.) of the Domestic Common Use Equipment and Domestic Common Use Terminal Facilities for each monthly billing period.
- 7.2 pay all expenses required for the operation and maintenance of the Facilities authorized under this Agreement.
- 7.3 assist City with the acquisition and conversion of preferential use Facilities to Common Use.
- 7.4 provide the following monthly reports as requested:
- 7.4.1 Gate Usage Reports;
 - 7.4.2 Ticket Counter Usage Reports;
 - 7.4.3 Baggage Carousel Usage Reports;
 - 7.4.4 Passenger Totals Reports (enplaned domestic, international, and total passengers);
 - 7.4.5 Equipment Status Reports regarding the condition of all Common Use Equipment;
 - 7.4.6 Ramp control reports to include total operations; and
 - 7.4.7 Other reports, as requested.
- 7.5 assist City with coordination of activities necessary to start up new scheduled passenger air service by new entrant Air Carriers, to include communicating directly with the new entrant Air Carrier to determine scheduling and any other requirements.

- 7.6 collect and disseminate all required information on flight schedules, aircraft movements, Gate use, passenger enplanements and deplanements, outbound baggage counts and other terminal activity, as requested.
- 7.7 prepare annual budget and a detailed historical report of operating and maintenance costs by components.

8. Patron Claims and Complaints. Service Provider must promptly investigate and coordinate resolution of all claims made for losses or damages and complaints about Service. Upon City's request, Service Provider must furnish City's Authorized Representative with a copy of the complaint or claim, Service Provider's documentation of its investigation of the complaint or claim and its written response. Service Provider must maintain a computer database of compliments and complaints which must be made available to City upon request. A copy of all notifications or claims of damage or personal injury must be submitted to City's Authorized Representative within 24 hours after receipt.

9. Communication. Service Provider must maintain effective lines of communication with City, the tenants and traveling public to ensure flexible, effective support. Service Provider must:

- 9.1 proactively participate in defining issues, devising solutions to problems and developing future plans.
- 9.2 develop and deploy an effective customer satisfaction program through the use of "listening and learning" techniques and customer feedback mechanisms that resolve daily problems, leading to long-term process improvements.
- 9.3 manage relationships with City departments, tenants, local governments, agencies, businesses, and community organizations to enhance Agreement effectiveness and promote a favorable image of City.
- 9.4 inform all customers of changes in level of service before they occur via the customer Service staff.
- 9.5 provide cellular phones, as a minimum, to their management and supervision and other personnel that will be responsible for receiving Service requests, complaints, instructions, and coordinating Services directly with City.
- 9.6 maintain a contact list of names, emergency telephone numbers and cellular telephone numbers and provide to City on the

Commencement Date. This list must be updated monthly, as needed, and provided to City.

10. Work Hours. Service Provider must:

- 10.1 provide on-site coverage and be responsible for the provision of Services and operation of the Facilities twenty-four hours per day, seven days per week (including any holidays).
- 10.2 adjust Services hours depending on available access to locations to perform functions and to the extent possible, not disrupt City tenant operations.
- 10.3 respond to all emergency situations.

11. Response and Resolution Table.

- 11.1 The timing goals for problem resolution are set forth in the table below. Except for Services provided by any of the AATC/Delta Entities, Service Provider will use its best efforts to satisfy these timing goals in responding to problems. The time will be measured from the time a problem arises until it has been resolved.

<p>11.2 Service Provider personnel must report to City Representative when they arrive on site and again when the issue is resolved. Service Provider must utilize a software program, or alternate manual process, to track the response and resolution time for each request and the percentage of those requests that were not compliant with the Response & Resolution Table. Service Provider must submit this information in the monthly report to the Aviation General Manager. Response & Resolution Table (Not limited to examples provided)</p>	
Immediate Response	<p>Events or conditions that potentially threaten life safety, traveling passenger access and comfort, environmental compliance or security of building occupants or content require immediate response. Examples of such events include, but are not limited to, fire alarms, security risks, temperature control requests, floods, spills on floor, lockouts and conveyance system malfunctions.</p>
Two hours	<p>Service Requests or complaints which cannot be resolved by control operations, as well as events which may disrupt the physical comfort of the traveling public or Facilities occupants, or which may significantly impact energy conservation, must receive a response within two hours, and should be prioritized over all other Services orders.</p>
One working day	<p>Events which may cause significant inconvenience to the travelling public or Facility occupants should receive response on a same day basis, or at least within one working day. Example of such events include, but are not limited to, clogged drains or toilets and broken windows, doors and locks which do not present immediate security risks.</p>

Attachment: TBI Operation & Management Agreement (14-R-3494 : TBI Operation and Management)

Two working Days	Events that may cause inconvenience to the traveling public or Facility occupants, although not representing emergencies, should receive attention quickly, since this may affect operations. Examples of events that require two-day resolution include, but are not limited to, requests for additional keys, requests for Service consultations, and missing ceiling tiles.
Five working Days	Most requests for skilled Services are for events that should be resolved as soon as practical, but can be scheduled to promote Services efficiency. Examples include, but are not be limited to, all routine maintenance work, such as installation, removal, replacement, repair or adjustment of equipment, finishes, or fixtures which require plumbing, carpentry, painting, electrical, electronic, HVAC and related Services. Events that may lead to additional problems should be resolved before such problems occur. An example of this would be floor repairs, stripping and refinishing, which should be completed as soon as possible after being detected.
Thirty working Days	Requests for Services that require Facility shut downs, or the use of external parties, cannot be expected to be accomplished within the routine five working day standard. This timeliness level is intended precisely for such exceptions, and should not be used to delay routine Services that should be accomplished within five working days. An example of this would be a situation that requires special shutdown, notification, equipment or personnel on site to resolve the Service issue.
Special Projects	Requests for Services, which involve a sequence of activities, possibly involving multiple internal and external Service providers, should be treated as special projects, and specific due dates should be established for each.
Negotiated	There may be instances where City or Service Provider requires performance of Services by a specific date which is not represented in this table. In these cases, a date will be established at the time the Services are requested.

12.3 The above resolution categories will not be construed as open limits. Service Provider must work diligently to resolve issues without delay at all times.

12.4 Immediate Response.

12.4.1 For immediate response category, Service Provider must be at the site of the Service call within 5 minutes of verbal or written notification with Service technicians with the appropriate technical skills, tools and equipment to diagnose the problem and resolve the issue within the requirements of the Response & Resolution Table. The response will be measured from the time of notification to physical arrival at the location of the problem.

12.4.2 During the initial response, Service Provider must rectify the immediate cause of the Service call, identify auxiliary Services that are precipitated from incident, identify all labor, parts and materials necessary to correct the problem, and notify appropriate personnel to assist in the final resolution of the problem.

12.4.3 Service Provider must be available for immediate response to situations that could delay passenger or aircraft movement. Resolution may not be more than 15 minutes. Immediate response is also required for events or conditions that potentially threaten life safety, traveling passenger access.

13. Quality Control.

13.1 Service Provider must establish, implement and maintain a proactive quality control program that reflects and incorporates quality control processes for all technical staff and quality management practices for all supervisory staff.

13.2 Except for Services provided by any of the AATC/Delta Entities, Service Provider must maintain production and quality control records for review by City's Authorized Representative.

14. Record-Keeping and Reporting.

14.1 **Monthly & Annual Reports.** Service Provider must provide a comprehensive monthly and annual report to City's Authorized Representative. The reports must address, but not limited to:

- 14.1.1 Serious issues and concerns with operations;
- 14.1.2 Staffing, equipment, supplies, and materials issues;
- 14.1.3 Names of current employees working in the Facilities;
- 14.1.4 Maintain electronic records of weekly time for each employee;
- 14.1.5 Maintain complete description of the method and procedures for collection of data;
- 14.1.6 Summarize major maintenance issues;
- 14.1.7 Customer services issues and comments;
- 14.1.8 Outstanding issues and/or resolution;
- 14.1.9 Special projects and completion status.
- 14.1.10 Safety incidents;
- 14.1.11 Aircraft operations data;
- 14.1.12 Passenger operations data;
- 14.1.13 Annual Operating Budget; and

14.2 Service Provider must provide an annual report that summarizes and trends the results of the monthly reporting and Service Provider's recommendations to address, correct or improve the results. Service Provider

must provide the method and approach for providing the monthly and annual reports to City's Authorized Representative.

Attachment: TBI Operation & Management Agreement (14-R-3494 : TBI Operation and Management)

must provide the method and approach for providing the monthly and annual reports to City's Authorized Representative.

Attachment: TBI Operation & Management Agreement (14-R-3494 : TBI Operation and Management)

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview:

Caption:

Council Meeting Date:

Requesting Dept.:

FAC Confirmed by:

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

A resolution authorizing the Mayor to add funding to Agreement FC-5060, Operation and Management of common use facilities & equipment at Hartsfield-Jackson Atlanta International Airport with TBI Airport Management, Inc., in the amount of \$4,240,000 to include a project to install automated passport control kiosks at Hartsfield-Jackson Atlanta International Airport.

The scope of this project is to design, procure, install and operate 74 automated passport control kiosks in the Customs and Border Protection (“CBP”) arrival areas. Thirty-eight (38) kiosks will be installed on Concourse E and 36 kiosks will be installed on Concourse F. The kiosks will be certified by the US Customs and Border Protection and will capture and validate passport data. The kiosks allow passengers to photograph themselves and enter passport and customs data for review by CBP. Once the data is entered into the kiosk, it is sent to CBP’s network for validation. Upon validation, a receipt is printed for each passenger entering the country. The receipt is then taken to a CBP Officer, where an entry interview is conducted. All kiosks will be ADA compliant and must meet CBP’s Electronic System for Travel Authorization (“ESTA”) requirements for visa waiver program processing.

2. Please provide background information regarding this legislation.

The Automated Passport Control kiosk program is newly approved by the US Customs and Border Protection and is currently available at less than ten US airports. The program allows CBP officers to focus their efforts on law enforcement by letting arriving United States and Canadian Citizens as well as those enrolled in the visa waiver program enter their own data

into the CBP database. These kiosks reduce the amount of data entry by CBP officers and have reduced arrival wait times at other airports significantly. It is expected to have measurable benefits at the Airport.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
Professional Services
- (b) **Source Selection:** N/A
- (c) **Bids/Proposals Due:** N/A
- (d) **Invitations Issued:** N/A
- (e) **Number of Bids:** N/A
- (f) **Proposals Received:** N/A
- (g) **Bidders/Proponents:** N/A
- (h) **Term of Contract:** N/A

4. Fund Account Center (Ex. Name and number):

PTAEO: 18111302 (CONCOURSE PROJECTS) D0290011 (CONC T-NORTH OPTIMIZATION) 550291249 (DOA R N E 9999) 5414002 (FACILITIES OTHER THAN BLDGS) AND FDOA: 5502 (AIRPORT RENEWAL & EXTENSION FUND) 180201 (DOA AVIATION CAPITAL PLANNING & DEVELOPMENT) 5414002 (FACILITIES OTHER THAN BLDGS) 7563000 (AIRPORT) 111302 (CONCOURSE PROJECTS) 91249 (DOA R N E)

5. Source of Funds: Example: Local Assistance Grant Aviation Renewal and Extension

6. Fiscal Impact: \$4,240,000.00 capital expenditure

Example: This legislation will result in a reduction in the amount of _____ to Fund Account Center Number _____.

7. Method of Cost Recovery:

- a. The City will submit an application to the FAA to ultimately use Passenger Facility Charges

This Legislative Request Form Was Prepared By: Cathy Donato

