



**REQUEST FOR PROPOSALS**

**FIXED BASE OPERATOR (“FBO”)**

**MANAGEMENT SERVICES**

Date: August 13, 2024

RFP Number: AVIA 25-08

Subject: Request for Proposals for the following Services:

### **FIXED BASE OPERATOR ("FBO") MANAGEMENT SERVICES**

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This letter extends an invitation for the submission of a proposal to supply the Charlotte Douglas International Airport with the non-federally funded services as indicated above. Proposals for the above will be received via the e-bidding portal until **2:00 p.m. eastern standard time (est.)** on **September 25, 2024**.

A mandatory in person pre-proposal conference to review the RFP regarding the project, will be held on **September 5, 2024, at 11:30 am est.** at the Charlotte Douglas International Airport, CLT Center, 5601 Wilkinson Boulevard, Charlotte, North Carolina 28208 in the Eagle Conference Room. Interested parties that will be submitting as a prime service provider are required to attend and to have a copy of the RFP with you at that time. Potential subcontractors are encouraged to attend.

Immediately following the pre-proposal conference will be the activities listed below:

- A "Meet and Greet" session will be held at noon among the prime service providers and subcontractors.
- A mandatory in person site visit for only the prime service providers will begin at 1:00 p.m. A maximum of three persons per prime service provider will be permitted to attend. Be sure to register per the directions outlined in Section 1, General Instructions, Part C.2 – Instructions to Proposers, Mandatory In-Person Pre-Proposal Conference.

Changes to the terms, conditions or specifications stated in this Request for Proposals will be documented in a written addendum, issued by the Charlotte Douglas International Airport. These addenda will be accessible through the e-bidding portal.

Questions should be directed to Johnella Walker through the e-bidding portals Q&A Board. Thank you in advance for your interest in doing business with the Charlotte Douglas International Airport. We look forward to your participation!

Charlotte Douglas International Airport (CLT), a City of Charlotte department does not discriminate based on disability. Auxiliary aids and services, written materials in alternative formats, and reasonable modifications in policies and procedures will be provided upon request to persons with disabilities. To make a request, please email [johnella.walker@cltairport.com](mailto:johnella.walker@cltairport.com) or call (704) 534-3885.

Sincerely,

Johnella Walker

### **Checklist for Submitting a Proposal:**

- Cover Letter
- Form 1 Proposal Form
- Form 2 Qualifications and Proposer Requirements
- Form 3 Nondiscrimination Certification
- Form 4 CBI Program Requirements
- Form 5 Confidential Information
- Form 6 Compensation Worksheet

The above items must be included in the Proposal. If awarded a contract, evidence of insurance that meets or exceeds the requirements set forth in Attachment B (Sample Contract) are required.

## SECTION 1: GENERAL INSTRUCTIONS

### A. INTRODUCTION

Pursuant to this Request for Proposals ("RFP"), Charlotte Douglas International Airport ("CLT" or "Airport"), which is owned and operated by the City of Charlotte, North Carolina ("City"), is seeking Proposals from qualified and experienced companies (individually or collectively, the "Proposer") interested in providing Fixed Base Operator ("FBO") Management Services from and at facilities to be provided by the City (the "Work"). Details of the requested Work are attached hereto as **Attachment A**. The RFP consists of the following components:

**Section 1:** General instructions and special conditions that apply to this proposal process and procurement.

**Section 2:** The required forms that a Proposer is required to complete and return as its Proposal (called the "Proposal Response Forms")

**Section 3:** The Scope of Work (**Attachment A**), FBO Supplemental Information (**Attachment A-1**), and Sample Contract substantially similar to the final contract the successful Proposer will be expected to execute (**Attachment B**).

Each reference to this RFP includes all components listed above as well as any addenda provided by the Airport. Please review each section carefully, including all attachments and exhibits. Proposers will be held accountable for having full knowledge of the contents of this RFP and for performing any due diligence that may be necessary to submit a binding Proposal. Failure to comply with the terms, conditions and requirements of this RFP may result in disqualification of the Proposer in the sole discretion of CLT.

The Work will be governed by a contract between the selected Proposer ("Company" or "Operator") and the City, a sample of which is attached hereto as **Attachment B** (the "Contract"). The term of the Contract shall be for ten (10) years with up to five (5) optional two (2) year extensions. Proposers are advised to carefully read and review the Contract as they prepare their Proposal. CLT reserves the right to revise the terms of the Contract at any time during the RFP process and to negotiate different terms with the Company.

### B. SCHEDULE

DATE	ACTIVITY (All times are EST)
8/13/2024	Issue RFP
8/30/2024	Submission of written questions prior to pre-proposal conference and confirmation of plan to attend
8/30/2024	Registration for pre-proposal/site visit due by 3:00 PM EDT.
9/5/2024	Mandatory in person pre-proposal conference at 11:30 AM EST

9/16/2024	Submission of written questions after pre-proposal conference at 5:00 PM EST
9/25/2024	Proposals are due by 2:00 PM EST
10/11/2024	Evaluation
10/24/2024	Proposer interviews
12/9/2024	Tentative City Council date

CLT reserves the right to modify the deadlines set forth in the above table in its sole discretion. Any such modifications will be stated in an addendum as described below.

**C. INSTRUCTIONS TO PROPOSERS**

1. Point of Contact

The point of contact for all submissions and correspondence regarding this RFP is Johnella Walker (“RFP Project Manager”) who can be contacted through the Q&A Board online in the e-bidding portal. If there are technical questions regarding use of the e-bidding portal please contact the RFP Project Manager at johnella.walker@cltairport.com.

2. Mandatory In-Person Pre-Proposal Conference

An In-Person Pre-Proposal Conference will be conducted on the date and at the time stated in the RFP Schedule above at the CLT Center, 5601 Wilkinson Blvd., Charlotte, NC 28208. If planning to attend the conference, please submit the information below **via the Q&A board in the bidding portal by 3:00 pm EDT. on Friday, August 30, 2024** and include any special accommodation(s) required. **This includes all contractors that are currently badged!** Late submissions will not be accepted.

Company Representative Full Legal Name*	Company Name	Title	Phone Number	Email Address	Date of Birth**	Gender**
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\*First, Middle, Last as it appears on your unexpired, government ID

\*\*Required for security clearance

Parking is available in the front of the CLT Center and/or the Express Deck Self Park (more information will be provided to registrants via email).

All attendees are required to sign in at the CLT Center’s front desk and provide vehicle license tag numbers.

The Pre-Proposal Conference will be immediately proceeded by a meet and greet and site tour. Note that the site tour is for only the prime service providers. All visitors participating in pre-proposal site tours and meetings must be in possession of their unexpired, government issued photo identification at the time of the tour. All personal items are subject to inspection before and during the tour.

When the pre-proposal conference is mandatory, proposals will not be accepted from companies that do not attend.

3. Questions and Addenda

The Airport is committed to providing all prospective Proposers with accurate and consistent information to ensure that no Bidder obtains an unfair competitive advantage. To this end, from the date of this RFP through the Proposal’s due date, no interpretation or clarification of the meaning of any part of this RFP will be made orally to any prospective Proposer except for questions answered at the pre-proposal conference.

Requests for interpretation or clarification must be submitted electronically to the RFP Project Manager via the e-bidding portal Q&A Board. All questions must be submitted no later than the date and time stated in the RFP Schedule as the deadline for submission of questions. Any questions received after that time may not be addressed prior to the proposal due date. When submitting a request for interpretation or clarification, Proposers are encouraged to utilize the following format:

Item #	Page #	Section #	Section Title	Question, Clarification or Modification

Interpretations, clarifications, supplemental instructions and/or changes to the terms, conditions or requirements of this RFP will be documented in written addendum and posted to the e-bidding portal.

Only the written interpretations, clarifications or supplemental instructions set forth in the posted addenda shall be binding, and Proposers are warned that no other source is authorized to give information concerning, explaining or interpreting this RFP. The receipt of each addendum must be acknowledged using the space provided on **Form 1** in **Section 2**. The Airport may not consider any RFP that fails to acknowledge receipt of each issued addendum.

4. RFP Acknowledgement

Proposers shall thoroughly examine and become familiar with this RFP, including forms, attachments, exhibits and any addenda that may be issued. The failure or the neglect of a proposer to receive or examine any RFP document shall in no way relieve it from any obligation with respect to its proposal or the obligations that flow from making a

selected proposal. No claim based upon a lack of knowledge or understanding of any document or its contents shall be allowed.

5. Proposal Format

Proposals shall consist of Proposal Response Forms and their respective content and any additional information relevant to the Work that the Proposer believes will help CLT in making its decision up to a **maximum of 40 pages**.

Proposal should include all elements as listed on the Checklist for Submitting a Proposal found within this RFP. CLT desires all Proposals to be identical in format to facilitate the evaluation process. Failure to comply with the format requirements set forth herein may result in rejection of the Proposal.

Responses must be typewritten or completed in ink and signed by an authorized representative of the Company. Any erasures or corrections must be initialed and dated by the authorized representative that signs the Forms.

6. Submission Requirements

Proposals must be submitted through the e-bidding portal at

<https://gateway.app.e-builder.net/app/bidders/landing?accountid=80fe0a4a-0c8f-4fcd-ac93-cc9db65522cb&projectid=840866c2-1f79-464c-963f-4d5b94f7215e&bidpackageid=71f8686c-bf1a-4373-ac78-f31d57e9cca2>

The pricing must be submitted in the table included on the website. The forms herein must be completed and uploaded to the site by the proposal due date and time.

Submit separately, "Confidential and Proprietary Information," or other information not subject to North Carolina Public Records law, including, without limitation, personally identifiable information (PII). The confidentiality caption stated above must appear on each page of any such information.

Failure of the Proposer to organize the information required by this RFP as outlined herein may result in CLT, at its sole discretion, deeming the Proposal non-responsive to the requirements of this RFP. The Proposer, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

7. Selection Criteria and Minimum Requirements

Upon review and evaluation of all qualifying proposals, including any interviews that CLT may require, the Evaluation Committee will select and recommend for award the Proposer that, in its sole judgment, is most responsive in meeting the requirements and objectives of this RFP as set forth below.

<b>Experience</b>	CLT will evaluate the Proposer based on its ability to meet the Experience requirements as set forth in Form 2 Section C Experience and Qualifications.
<b>Operating Plan</b>	CLT will evaluate the Proposer's ability to meet the requirements set forth in the Scope of Work as detailed in the Proposer's Operating Plan which shall meet the minimum requirements as set forth in Form 2 Section F Operating Plan.
<b>Transition Plan</b>	CLT will evaluate the Proposer's planned Transition Plan based on its ability to maintain a seamless operation through the Contract Execution Date of July 1, 2025. Proposer's Transition Plan shall meet the minimum requirements set forth in Form 2 Section G Transition Plan.
<b>Compensation</b>	CLT will evaluate the Proposer on the proposed compensation related to the provision of the Work and submitted in compliance with the requirements set forth in Form 6.
<b>Capital Investment Plan</b>	CLT will evaluate the Proposer's planned Capital Investment Plan to determine highest and best use of CLT's assets. Proposer's Capital Investment Plan shall meet the minimum requirements set forth in Form 2 Section H.
<b>Quality of Proposal</b>	CLT will evaluate the overall quality of the Proposal with the assumption the thoroughness and professional manner with which the Proposal was prepared is an indication of the manner in which the Proposer may approach its performance of the Work.

8. Proposal Terms are Firm and Irrevocable

The signed Proposal shall be considered a firm offer on the part of the Proposer. All Proposal responses (including all statements, claims, declarations, prices and specifications in the Proposals) shall be considered firm and irrevocable for purposes of contract negotiations unless specifically waived in writing by CLT.

9. Evaluation Committee and Award of Contract

The Aviation Director, or her designee, will appoint an Evaluation Committee to review all Proposals. As part of the evaluation process, the Evaluation Committee may engage in discussions with any Proposer to determine in greater detail the Proposer's qualifications and to learn about the Proposer's proposed method of performance to facilitate arriving at an agreement that will be satisfactory to CLT.

CLT may in its discretion require one or more Proposers to make presentations to the Evaluation Committee or appear before CLT and/or its representatives for an interview. During such interview, the Proposer may be required to present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify



issues or to address comments, as CLT deems appropriate. Proposers will be notified in advance of the time and format of such interviews and/or meetings.

The Evaluation Committee will consider all relevant materials and information in making its selection and recommendation to the Aviation Director, the Proposer that it determines is best able to provide the Work.

CLT will inform the Company that it has been selected, subject to final agreement on all terms and conditions of the Contract. If CLT and the Company are unable to agree on the final terms, the Company will be excused from further consideration and CLT may, at its option, select another Proposer.

**The City shall have no obligations under this RFP until the Contract has been executed by both parties.**

10. Contract Award by City Council

The name of the selected Proposer will be submitted to the City Council or designee for final approval and award (if applicable). Prior to the recommendation to the City Council or designee, the successful Proposer must provide to the Airport an executed Contract which will be substantially similar to the contract in Section 3 **Attachment B** of this RFP. Upon approval of the Contract by City Council or designee, the Airport will execute the documents and send a copy to the successful Proposer. **The City Council or designee may, in its sole and absolute discretion, accept or reject the recommendation of the Evaluation Committee, the Contract and supporting ancillary documents.**

11. Accuracy of RFP and Related Documents

CLT assumes no responsibility for conclusions or interpretations derived from the information presented in this RFP, or otherwise distributed or made available during this selection process. In addition, CLT will not be bound by or be responsible for any explanation, interpretation or conclusions of this RFP or any documents other than those provided by CLT through the issuance of addenda. In no event may a Proposer rely on any oral statement in relation to this RFP.

Should a Proposer find discrepancies or omissions in this RFP, or any other documents provided by CLT, the Proposer should immediately notify CLT of such discrepancy or omission in writing, and a written addendum may be issued if CLT determines clarification is necessary. Each Proposer requesting a clarification or interpretation will be responsible for delivering such requests to CLT as directed in this RFP.

The information contained in this RFP forms, exhibits and attachments, hereto, and any addendum that may be issued, has been obtained from sources thought to be reliable, but the City and its elected officials, officers, employees, agents and contractors, are not liable for the accuracy of the information or its use by prospective respondents.

12. Proposer's Cost of Proposal Preparation

Proposers are responsible for all costs associated with the proposal process including, but not limited to, the creation of the proposal and any interviews (if applicable). CLT will not accept any promotional items as part of the proposal process and any such items included will either be discarded or, if so requested, returned to the Proposer at Proposer's cost.

13. Attempts to Influence the Selection Process

Except for clarifying written questions sent to the RFP Project Manager, all Proposers, including any and all persons acting on their behalf, are strictly prohibited from contacting City staff on or regarding any matter relating to this RFP from the time the RFP is issued until the intent to award is communicated to Proposers with the exception of requests for additional information made by City Staff in their determination of responsibility and responsiveness of the Proposer (the qualifications and experience of the Proposer).

**CLT reserves the right to disqualify any Proposer who contacts a City staff or evaluation committee members concerning this RFP other than in accordance with this RFP.**

14. RFP Not an Offer

This RFP does not constitute an offer by CLT. No recommendations or conclusions from this RFP process shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of CLT unless CLT and the Proposer execute a Contract following award of such agreement.

15. Withdrawal of Proposal; Correction of Errors

Withdrawal of the proposal may occur at any time prior to the submission deadline as set forth in the RFP Schedule above, by written request, sent by email to the RFP Project Manager. A request for withdrawal will not be effective until CLT has confirmed, in writing, the receipt of such request. A request to withdraw a Proposal by telephone or facsimile shall not be considered a valid request to withdraw a Proposal. Withdrawal of one proposal will not preclude the submission of another timely proposal but no withdrawal will be allowed after the submission deadline.

If Proposer desires to amend a submitted Proposal before the Proposal Due Date, Proposer must follow the withdrawal procedures described in this Section and resubmit the amended Proposal on or before the Proposal Due Date in a manner consistent with the Submission Requirements. The Proposer further agrees that in the event of any obvious errors, CLT reserves the right to waive such errors in its sole discretion.

#### 16. Disqualification of Proposals

Without in any way limiting CLT's right to reject any or all Proposals, Proposers are advised that any of the following may be considered as sufficient cause for the disqualification of a Proposer and the rejection of a Proposal: (i) failure to meet the eligibility requirements set forth in the Specifications or RFP; (ii) submission of more than one proposal by an individual, firm, partnership or corporation under the same or different names, including the names it does business under unless multiple or alternative proposals were specifically requested under this RFP; (iii) evidence of collusion among proposers; or (iv) improper communication as described above. Proposals will be considered irregular and may be rejected for omission, alterations of form, additions not called for, conditions, limitation, unauthorized alternate proposals or other irregularities of any kind. All the foregoing notwithstanding, however, CLT reserves the right to waive any such irregularities.

#### 17. CLT's Rights and Options

CLT reserves the following rights, which may be exercised at CLT's sole discretion:

- i. To supplement, amend, substitute, withdraw or otherwise modify this RFP at any time;
- ii. To issue additional requests for information;
- iii. To require a Proposer to supplement, clarify or provide additional information for CLT to evaluate its Proposal, including without limitation, requests to provide samples of items requested under this RFP;
- iv. To conduct investigations with respect to the qualifications and experience of each Proposer;
- v. To waive any defect or irregularity in any Proposal received;
- vi. To share the Proposals with City and/or CLT employees and contractors other than the Evaluation Committee as deemed necessary;
- vii. To award all, none, or any part of the Work set forth in this RFP to one or more Proposers as is in the best interest of CLT with or without re-solicitation;
- viii. To discuss and negotiate with selected Proposer(s) any terms and conditions in the Proposals including but not limited to financial terms;
- ix. To enter into any agreement deemed by CLT to be in the best interest of CLT;
- x. To reject any or all proposals submitted; and
- xi. To re-advertise for proposals using this RFP or a different RFP or solicitation.

#### 18. Representation by Broker

The City will not be responsible for any fees, expenses or commissions for brokers or their agents. Communications by or between employees of or contractors to the City and any potential or actual respondent broker or agent are not to be construed as an agreement to pay, nor will the City pay any such fees, expenses or commissions. By submitting its proposal, respondent agrees to hold the City harmless from any claims,

demands, actions or judgments in connection with such broker fees, expenses or commissions.

19. Ownership and Public Records Law

All proposals and supplementary material provided as part of this process will become the property of the City. Proposers are advised that all information included in the material provided is public record except for information that falls under one or more of the statutory exceptions set forth in Chapter 132 and 66-152 *et seq.* of the North Carolina General Statutes. Proposer may only designate information confidential that it, in good faith, considers a trade secret or confidential under North Carolina public records and trade secret law. However, CLT reserves the right to review and make any final determination on if any material submitted is in fact protected by an exception to North Carolina's public record law. In submitting a proposal, each Proposer agrees that the CLT may reveal any trade secrets or confidential information to CLT staff, consultants or third parties assisting with this RFP and resulting Contract. Where information is marked Trade Secret or confidential, Proposer agrees to indemnify, defend and hold harmless the City and each of its officers, employees and agents from all costs, damages and expenses incurred relating to the City choosing to withhold any material based on Proposer's designation of said material as a trade secret or confidential.

20. Title VI Solicitation Notice:

The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

21. E-Verify

Where applicable, the successful proposer must agree to meet the E-Verify requirements as set forth in the sample Contract below.

22. NC Prohibitions on Contracts with Companies that Invest in Iran or Boycott Israel.

Where applicable, the successful proposer must certify that it meets the NC Prohibitions on Contracts with Companies that Invest in Iran or Boycott Israel as set forth in the sample Contract below.

23. Charlotte Diversity and Inclusion Programs

The City complies with three programs, the Charlotte Business INclusion ("CBI") Program, the Disadvantaged Business Enterprise ("DBE") Program and the Airport Concession

Disadvantaged Business Enterprise (“ACDE”) Program, depending on the funding source or location and service associated with the Work.

The CBI Program is based on the City’s long history of creating and implementing strategies to support and encourage local business growth. In 2013, the City Council adopted the CBI policy to promote diversity, inclusion, and local business opportunities in the City’s contracting and procurement process for Minority, Women, and Small Business Enterprises (“MWSBEs”). A complete list of City of Charlotte certified Small Business Enterprises (“SBEs”) and City of Charlotte registered Minority and Women Business Enterprises (MWBEs) is available on the City’s website at [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com).

The DBE Program is based on the requirements of 49 CFR Part 26 – *Participation by DBE in Department of Transportation Financial Assistance Programs*. A complete copy of the City’s DBE Program can be found at [www.cltairport.com](http://www.cltairport.com).

The ACDBE Program is based on the requirements of 49 CFR Part 23 – Participation of Disadvantaged Business Enterprise in Airport Concessions.

The information and requirements for the diversity and inclusion program applicable to this Contract are set forth in **Form 4** of this RFP.

## SECTION 2: FORMS

### FORM 1 PROPOSAL FORM

#### A. COVER LETTER

The Proposal must include a cover letter including the name, address and telephone number of the Proposer and the executive that has the authority to contract with CLT. It shall also include an Executive Summary outlining how the Company best meets the requirements set forth in this RFP.

#### B. NON-COLLUSION AFFIDAVIT

In submitting this Proposal, Proposer hereby declares that the only person or persons interested in this Proposal as principal or principals is or are named herein and that no person other than herein mentioned has any interest in this Proposal or in the contract to be entered into; that this Proposal is made without connection with any other person, company or parties submitting a Proposal in response to this RFP; and that it is in all respects fair and in good faith without collusion or fraud. Proposer represents to the City that, except as may be disclosed in an Addendum hereto, no officer, employee or agent of the City presently has any interest, either directly or indirectly, in the business of Proposer, and that any such officer, employee or agent of the City having a present interest in the business of Proposer shall not have any such interest at any time during the term of the Contract should it be awarded to the Proposer.

#### C. ACKNOWLEDGEMENT OF ADDENDA

Proposer further declares that it has examined the RFP including all Attachments, Exhibits and Addenda, as acknowledged below, and that he/she has satisfied himself/herself relative to the requirements, procedures, and rights of this RFP. Acknowledgment is hereby made of receipt of the following Addenda (identified by number) since issuance of the RFP. ***Failure to acknowledge all addenda may result in disqualification of the Proposer.***

Addendum Number	Date

#### D. SUBCONTRACTORS

Proposer must list all proposed subcontractors, if any, in the table provided below. No change in the proposed subcontractors listed herein will be allowed without the express written consent

of CLT. All proposed subcontractors must be able to demonstrate their ability to perform the Work proposed to the complete satisfaction of CLT.

Name of Subcontractor	Description of Work to be Performed

**E. VERIFICATION AND CERTIFICATION OF AUTHENTICITY OF PROPOSAL**

**The information contained in this Proposal or any part thereof, including its Forms, Attachments, Exhibits and other documents and instruments delivered or to be delivered to CLT, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead CLT as to any material facts.**

Submission of this Proposal is the duly authorized official act of the Proposer and the person(s) executing this Proposal and is in accordance with the terms and conditions as set forth in the RFP. The Proposer is duly authorized and designated to execute this Proposal on behalf of and as of the official act of Proposer, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

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

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

Phone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**FORM 2**  
**QUALIFICATIONS AND PROPOSER REQUIREMENTS**

All statements contained herein must be true and correct. Any omissions or inaccuracies may result in the rejection of this Proposal by CLT. Proposers should note that some responses may require separate sheet(s) for response. Those responses should be appropriately marked corresponding to the question. Proposers should use as many additional sheets as necessary to completely answer the question.

The use of the term "Proposer" in this **Form 2** applies to Proposer and all subcontractors of Proposer that will be involved in the performance of the Work pursuant to the Contract unless otherwise noted.

**A. FINANCIAL SECURITY**

Prior to execution of the Contract, the Company shall be required to furnish CLT with a bond, letter of credit, or other credit instrument ("Financial Security") to secure performance under the Contract. The form, amount and terms of the Financial Security will be governed by the Contract. The Company is required to maintain the Financial Security for as long as the completed Contract is in effect.

**B. FINANCIAL CAPACITY**

Proposer is expected to have the financial ability to move forward with the Work, however, Proposer's financial information will not be a required as part of the Proposal. Upon inspection of the Proposals, CLT reserves the right to request all financial information it deems relevant in assessing the validity of the Proposal. Such materials may include, without limitation, an official bank statement, copies of account records certified by a CPA or a letter of credit. If, after reviewing the Proposals, the City requests that Proposer submit financial information as part of its Proposal, Proposer may choose to mark it "CONFIDENTIAL." to the extent the financial information submitted is not subject to disclosure under North Carolina's public records laws.

**C. EXPERIENCE AND QUALIFICATIONS**

Furnish a statement detailing Proposer's background, experience and qualifications which at a minimum includes:

- Corporation type;
- State of incorporation;
- Number of years in business;
- Summary of services provided substantially like the Work requested under this RFP;
- Organizational chart reflecting key personnel located at CLT for the provision of the Work including descriptions of their duties under the Contract. Key personnel shall include at a minimum managers and supervisors and the transition team (as applicable);
- Resume for the proposed General Manager to be assigned to CLT;
- Organizational chart reflecting the Proposer's corporate structure as it will relate to the CLT location; and
- Names and addresses of at least three (3) companies, excluding CLT, for which the Proposer provided substantially similar Work within the previous five (5) years, provided in the chart below.



	<b>Client 1</b>	<b>Client 2</b>	<b>Client 3</b>
Client Name:			
Description of the Work			
Dates Provided:			
Agreement Type:			
Compensation:			
Point of Contact (POC):			
POC E-Mail Address:			
POC Telephone:			
Key Personnel Assigned to the Work:			

**D. PROPOSER HISTORY**

<b>Question</b>	<b>Yes/No</b>	<b>If Yes, include an explanation</b>
Has Proposer ever been subject to claims, actions, demands, suits or other litigation (collectively litigation) brought by any airport owner/operator or others over non-payment of rent or fees, or non-performance of similar Work as that requested under this RFP?		
Does the Proposer have any past due arrearages or is the Proposer in breach of any previous or existing contract with the City?		
Has Proposer declared bankruptcy in the past ten (10) years?		
During the past ten (10) years, have any of Proposer's contracts, leases or other agreements been terminated or cancelled, either voluntarily or non-voluntarily, by another Airport owner/operator?		

**E. REFERENCES**

List three (3) clients, **excluding** the Aviation Department, for whom you have provided substantially similar work to that requested under this RFP for a reference check. Additional references, including the Aviation Department, may be included on a second form.

Name of Client	
Address	
Contact Person & Title	
Telephone Number & E-Mail Address:	
Name of Client	
Address	
Contact Person & Title	
Telephone Number & E-Mail Address:	
Name of Client	
Address	
Contact Person & Title	
Telephone Number & E-Mail Address:	

**F. OPERATING PLAN**

Proposer should attach an Operating Plan, clearly marked, that includes information on specific services provided by the Proposer as part of the Work. Operating Plan should include but not be limited to describing in detail how Proposer plans to provide the Services to meet the varying FBO requirements of users at the Airport as indicated in **Attachment A**.

Proposer should also include what services will be available in the executive terminals; proposed customer pricing, emergency service procedures; how sales will be monitored, collected and safeguarded until remitted to City; what information will be required of the customer and how it will be recorded and processed; and what additional services will be offered.

In short, describe the proposed operation in sufficient detail so that the City may have a full understanding of the methods and procedures you propose be employed in providing the FBO Management Services.

Also include any other information or material relevant to the proposed operation such as advertising or public information programs Proposer would recommend.

## **G. TRANSITION PLAN**

Proposers should attach a Transition Plan, clearly marked, outlining how the Proposer will ensure a seamless transition of the FBO operations and the continued operations of all essential areas with no disruptions.

Transition Plan should include but may not be limited to; a detailed timeline, equipment lead times associated with transition (this could include: additional equipment needed, branding and signage, point of sale systems, additional information technology equipment, fueling equipment, emergency equipment, and any other essential assets), and what impacts will be noticed by both CLT and FBO customers.

The Contract awarded as part of this RFP shall begin performance of all operational tasks on July 1, 2025. The Transition Plan should clearly indicate the date upon which the transition activities must begin in order to ensure a complete transition by this date.

## **H. CAPITAL INVESTMENT PLAN**

Proposer should submit a recommended Capital Investment Plan ("CIP") within Proposal that provides details on the following:

- A list of all equipment necessary to perform the services required in the scope of work. This list should include total quantity required and a description of the equipment required as well as an estimated cost to procure. A list of the current equipment is included in Attachment A-1 and can be used as a reference for your proposal.
- Proposed improvements and/or expansions to the FBO site that will improve the quality and efficiency of the operation throughout the term of this Agreement at Company's expense presented in order of priority. Aerial photos of the FBO are included in Attachment A-1 and CLT's GA Master Plan can be found in the bid portal. Both of these resources can be used as a reference for your proposal.

The awarded Company shall provide a refined and detailed Capital Investment Plan to the Airport for approval within 120 days of contract commencement. While completing the CIP, Company shall consult with the Airport's planning and development teams to reference the current Airport and GA Masterplan. The plan should include the following:

- Proposed improvements and/or expansions to the FBO facility that will improve the quality and efficiency of the operation throughout the term of this Agreement;
- Justification for proposed improvements should be included as well as estimated overall cost of improvement and requested investment, if any, from the Airport; and
- Proposed schedule and execution plan for any proposed investments. This should outline a schedule to implement proposed investments (whether equipment or substantive improvements) over the term of the Agreement and provide a proposed process by which the CIP is amended over the term of the Agreement.

## **J. EXCEPTIONS**

All Work requested in this RFP must be provided for the price(s) set forth in the Compensation Sheet, in strict conformance with the terms, conditions and specifications set forth in the RFP (including any addenda or

amendments). Savings associated with the exceptions listed below should be listed separate from the base pricing and such exceptions may or may not be accepted in the sole discretion of the Airport. Exceptions representing material changes to the RFP's terms (including the form Contract) are grounds for rejection of the Proposal. For each exception listed below include the relevant page number and section of the RFP. If none, state "None".

<b>Page &amp; Section Number</b>	<b>Section Title</b>	<b>Exception and Proposed Change</b>

**FORM 3**

**NONDISCRIMINATION CERTIFICATION**

The undersigned Proposer hereby certifies and agrees that the following information is correct:

1. In preparing its Proposal, the Company has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned discrimination, as defined in Section 2 below.
2. For purposes of this form, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation, gender identity and gender expression), veteran status, pregnancy, natural hairstyle or disability, or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the proposal submitted with this certification and terminate any contract awarded based on such proposal. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Proposer to any remedies allowed thereunder, including possible disqualification from participating in City contracts or solicitation processes for up to two years.
3. As a condition of contracting with the City, the Proposer agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subconsultants regarding this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the proposal submitted by the Proposer and terminate any contract awarded on such proposal. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Proposer to any remedies allowed thereunder.
4. As part of its proposal, the Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Proposer in a legal or administrative proceeding alleging that Proposer discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
5. As a condition of submitting a proposal to the City, the Proposer agrees to comply with the City's Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

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

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

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

Date: \_\_\_\_\_

**FORM 4**  
**CHARLOTTE BUSINESS INCLUSION PROGRAM REQUIREMENTS**

**A. Overview**

For this project, the City will negotiate an **MWBE** participation goal (“Contract Goal”) with the Company. The Contract Goal will be made part of the Company’s Contract. *The City’s aspirational MWBE goal for this project is 20%.*

**B. Submission Requirements**

Although the CBI Program allows CLT to negotiate a goal with the Company, CLT would like to see how the Proposer expects to utilize MWSBEs throughout the course of the Work. Therefore, Proposers are required to complete and attach CBI Form #3 – Utilization Commitment to their Proposal.

CBI Form # 3 should be submitted for this section, stating the MWSBE company(s) that the Proposer intends to use, and a description of the scope of work for each MWSBE company identified, EXCLUDING % or dollar values.

In the event the Company intends to self-perform, a CBI Form #3 should be still be submitted to document that the Proposer did not identify MWBE company(s) to utilize.

To search the database of certified vendors, please go to <https://charlotte.diversitycompliance.com> and click on “Search Certified Directory”. The Directory will allow a search of all certified firms by certification and commodity code or scope of work description.

Additionally, a complete list of registered MWSBEs as well as a copy of the CBI Policy is available on the City’s website at [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com).

**C. Additional Information**

The Company will also be required to submit CBI Form #4 – Letter of Intent for each MWSBE the Company commits to use to meet the Contract Goal. These forms are due no later than three (3) business days from the time they are requested by CLT, unless otherwise agreed by the parties. During the term of the Contract, the Company shall be required to submit CBI Form #6 – Payment Affidavit with each invoice submitted to CLT for payment.

*Form copies of CBI Form #3 – Utilization Commitment, CBI Form #4 – Letter of Intent and CBI Form #6 – Payment Affidavit can be found on CLT’s website at [www.cltairport.com](http://www.cltairport.com) under “Business with CLT – Business Diversity Programs”.*

**D. Contract Language:**

1. **CHARLOTTE BUSINESS INCLUSION POLICY.** The City has adopted a CBI Policy, which is posted on the City’s website at <https://charlottenc.gov/GS/procurement/cbi/Pages/default.aspx>. The parties agree that:
  - 1.1. That Charlotte Business Inclusion Program Policy (“CBI Policy”) and its Administrative Procedures Manual (“CBI Manual”) are posted on the City’s website and available in hard copy form upon request. Both the CBI Policy and CBI Manual comprise the CBI Program.
  - 1.2. The terms of the CBI Program, as revised from time-to-time, are incorporated into this Agreement by reference; and
  - 1.3. A violation of the CBI Program shall constitute a material breach of this Agreement and shall

entitle the City to exercise any of the remedies set forth in the CBI Program, including but not limited to liquidated damages.

- 1.4. The City will incur damages if the Company violates the CBI Program, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to incur as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Company agrees to pay the liquidated damages assessed by the City at the rates set forth in the CBI Program for each specified violation. The Company further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation.
- 1.5. Without limiting any of the other remedies the City has under the CBI Program, the City shall be entitled to withhold periodic payments and final payment due to the Company under this Agreement until the City has received in a form satisfactory to the City all claim releases, payment affidavits and other documentation required by the CBI Program. In the event payments are withheld under this provision, the Company waives any right to interest that might otherwise be warranted on such withheld amount under North Carolina General Statutes Section 143-134.1.
- 1.6. The remedies set forth in the CBI Program shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.
- 1.7. The Company agrees to participate in any dispute resolution process specified by the City from time-to-time for the resolution of disputes arising from the CBI Program.
- 1.8. Nothing in this Section shall be construed to relieve Company from any obligation it may have under N.C. Gen. Stat. §143-134.1 regarding the payment of subcontractors.

**2. CHARLOTTE BUSINESS INCLUSION MWSBE UTILIZATION AND REPORTING**

- 2.1. SUBCONTRACTOR UTILIZATION. Company has committed to subcontract for supplies and/or services from City Certified Small Business Enterprises (SBEs), and/or City Registered Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs) for the duration of the Contract, as follows:

Total MBE Utilization	%
Total WBE Utilization	%
Total SBE Utilization	%
<b>Total MWSBE Utilization</b>	<b>%</b>

Company shall not terminate, replace or reduce the work of an MWSBE without providing written notice to the city as outlined in the CBI Policy. Failure of Company to fulfill these utilization requirements shall constitute a material breach of this Contract, and shall entitle the City to exercise any of the remedies set forth in the CBI Policy, including but not limited to liquidated damages.

- 2.2. LETTERS OF INTENT. Company acknowledges that it will be required to execute one or more letters of intent on or prior to the Effective Date. Each letter of intent will list the subcontractor (MWSBE) vendor name and the amount that Company has committed to spend with the subcontractor. The letter(s) of intent will be submitted in such format as the City shall

determine. Company consents to submit its letter(s) of intent via the City’s selected electronic compliance management system, at the City’s option. The letter(s) of intent shall be deemed to be incorporated into this Contract when submitted by Company and accepted by the City. Any changes to letters of intent or any new letters of intent will also be deemed incorporated into this Contract when submitted by Company and accepted by the City.

- 2.3. PAYMENTS TO MWSBES. Company shall abide by N.C. Gen. Stat. §143-134.1 (b) and within seven (7) days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Furthermore, if Company has made a Quick Pay Commitment under the CBI Program, Company shall comply with any provisions of the Quick Pay Commitment that are more stringent than N.C. Gen. Stat. §143-134.1 (b), but shall also remain bound by N.C. Gen. Stat. §143-134.1(b).
- 2.4. PAYMENT REPORTING. As a condition to receiving payments under this contract, Company agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the city, detailing the amounts paid by Company to all subcontractors and suppliers.

Company has read and agrees to comply with the above Diversity and Inclusion Program terms and conditions as well as any other terms and conditions set forth in the City’s applicable Diversity and Inclusion Plan.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Company Name \_\_\_\_\_



**CBI FORM 3: Subcontractor / Supplier Utilization Commitment**

This form **MUST** be submitted at the time of Bid Opening. *Copy this CBI Form 3 as needed.*

Failure to properly complete and submit Form 3 with the Bid constitutes grounds for rejection of the Bid.

Per Section 3.5 of the CBI Administrative Procedures Manual, the Subcontractor/Supplier Utilization Commitment (**CBI Form 3**), captures information regarding the MWSBEs and other subcontractors and suppliers that the Bidder intends to use on the Contract **FOR ALL TIERS**.

M/W/SBEs must satisfy the requirements of Section 2 of the CBI Administrative Procedures Manual in order to count the work they intend to perform on the contract with its own current workforces towards the Contract Goal, and must list themselves below.

<b>Bidder Name:</b>			
<b>Project Name:</b>			
	<b>Established MBE Goal:</b>	Negotiated	
	<b>Established WBE Goal:</b>	Negotiated	
	<b>Established SBE Goal:</b>	Negotiated	

List below all **M/W/SBEs** that you intend to use on this Contract. **NOTE: You will only receive credit for M/W/SBEs that are currently certified with the City as of the Bid Opening Date.**

<b>M/W/SBE Vendor Name (Non-Hauling Services)</b>	<b>Description of work / materials</b>	<b>NIGP Code</b>

List below all **non-M/W/SBEs (subcontractors and suppliers)** that you intend to use on this Contract

<b>Vendor Name</b>	<b>Description of work / materials</b>	<b>NIGP Commodity Code</b>


**Letters of Intent submitted upon notice from the City**

Per Section 3.5 of the CBI Administrative Procedures Manual, within three (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Bidders must submit a separate Letter of Intent (**CBI Form 4**) for each M/W/SBE listed on **CBI Form 3**. Each Letter of Intent must be executed by both the M/W/SBE and the Bidder. The City shall not count proposed M/W/SBE utilization for which it has not received a Letter of Intent by this deadline. The Bidder is still obligated to pay the M/W/SBE the full amount listed on the Contract with the M/W/SBE regardless of what percentage is actually counted towards the M/W/SBE Goal.

**Adding subcontractors or suppliers after submitting this form**

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, per the CBI Administrative Procedures Manual, you must comply with the following:

- You must maintain the level of M/W/SBE participation stated in the Contract throughout the duration of the Contract, except as specifically allowed in Section 5
- If you need to terminate or replace a M/W/SBE, you must comply with Section 5.3
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Section 5.4
- A Letter of Intent (**CBI Form 4**) must also be submitted for each M/W/SBE you add subsequent to contract award.

**All Subcontractors and Suppliers must be registered with the City of Charlotte.**

Pursuant to the City’s Vendor Registration Policy, each subcontractor or supplier (non-MBE/SBE, WBEs, SBEs and MBEs) that you use on this contract must be registered in the City’s vendor database.

**Signature**

Your signature below indicates that the undersigned firm certifies and agrees that:

- (a) It has complied with all provisions of the CBI Policy and Administrative Procedures Manual; and,
- (b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy and Administrative Procedures Manual shall constitute grounds for rejection of your bid.

\_\_\_\_\_  
Signature of Authorized Official                      Printed Name                      Title                      Submittal Date

**FORM 5**  
**CONFIDENTIAL INFORMATION**

Company agrees to comply with all Confidentiality Requirements set forth in this Section. Failure to comply with the Confidentiality Requirements set forth herein may result in the rejection of Company's Proposal or termination of the Contract.

1. **CONFIDENTIAL INFORMATION.** "Confidential Information" means any information in any medium (whether written, oral or electronic), obtained from the City or any of its suppliers, contractors or licensors which falls within any of the following general categories:
  - a. *Plans and Drawings.* Building plans of city-owned buildings or infrastructure facilities, including without limitation as-built drawings of the Facilities, as well as specific details of public security plans, as provided by N.C. General Statute 132-1.7 (a);
  - b. *Trade secrets.* For purposes of this RFP, trade secrets consist of information of the City or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures;
  - c. *Security Plans.* Plans to prevent or respond to terrorist activity, including vulnerability and risk assessments, potential targets, specific tactics or specific security or emergency procedures, the disclosure of which would jeopardize the safety of government personnel or the general public or the security of any governmental facility, structure or information storage system as provided by N.C. General Statute 132-1.7 (a);
  - d. *Privileged Information.* Any attorney / client privileged information disclosed by the City.
  - e. *Sensitive Security Information ("SSI").* Any information that is marked as SSI or falls within one of the categories of SSI defined in 49 CFR 1520.
  - f. *Other Information.* Other information that is exempt from disclosure under the North Carolina public records laws.

For purposes of this Section, the term "Restricted Data" refers to and includes: (a) all Confidential Information that the City is restricted from disclosing under state or federal law; and (b) all Confidential Information that the City is permitted to withhold from disclosure under state or federal law and has elected to withhold from disclosure

The information described in Sections a, c and e is a subcategory of Confidential Information called "Highly Restricted Information." Highly Restricted Information is subject

to all requirements applicable to Confidential Information and subject to additional requirements Information described in Section e must also be protected in compliance with the Transportation Security Agency's best practices found at:  
<https://www.tsa.gov/sites/default/files/ssi-best-practices-guide-for-non-dhs-employees.pdf>

The Proposer acknowledge that Confidential Information includes information disclosed prior to submission of a Proposal as well as information disclosed after submission.

2. **RESTRICTIONS AND REQUIREMENTS.** The Company shall comply with the following restrictions and requirements regarding Confidential Information:
  - a. Company shall comply with the City's Restricted Data Policy, a copy of which is posted on the City's website, and with any instructions or procedures issued by City key business units from time to time with respect to protecting specific types of Confidential Information.
  - b. Company shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the City in writing.
  - c. Company shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an agent, subcontractor or vendor of the City or Company who: (a) has a need to know such Confidential Information for purpose of performing work contemplated by written agreements between the City and the Proposer, and (b) has executed a confidentiality agreement incorporating substantially the form of these requirements. Notwithstanding the forgoing, Company shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted to any third party without the City's prior written consent.
  - d. Company shall not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized under these Confidentiality Requirements or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
  - e. Company shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
  - f. Company shall use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, vendors, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by these Confidentiality Requirements.
  - g. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, Company shall assert these Confidentiality Requirements as grounds for refusing the demand and, if necessary, shall seek a

protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.

- h. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.
  - i. Company shall restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.
  - j. Company shall take reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by these Confidentiality Requirements. Company shall have each of its employees who will have access to the Confidential Information sign a confidentiality agreement which provides the City and its vendors, licensors, subcontractors, employees and taxpayers the same level of protection as provided by these Confidentiality Requirements.
  - k. Company shall ensure that each person who obtains access to Confidential Information through Company (including but not limited to Company's employees and subcontractors) has undergone training sufficient to understand his or her responsibilities with respect to these Confidentiality Requirements.
3. **EXCEPTIONS.** The City agrees that Company shall have no obligation with respect to any Confidential Information that the Company can establish:
- a. was already known to Company prior to being disclosed by the City;
  - b. was or becomes publicly known through no wrongful act of Company;
  - c. was rightfully obtained by Company from a third party without similar restriction and without breach hereof;
  - d. was used or disclosed by Company with the prior written authorization of the City;
  - e. was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Company shall first give to the other party notice of such requirement or request;
  - f. was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take reasonable steps to obtain an agreement or protective order providing that these Confidentiality Requirements will be applicable to all disclosures under the court order or subpoena.
4. **REMEDIES.** Company acknowledges that the unauthorized disclosure of the Confidential Information will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if Company breaches its obligations hereunder, the City shall be entitled to

equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

- 5. **DATA.** The Company will treat as Confidential Information all data provided by the City or processed for the City or for citizens under these Confidentiality Requirements (including metadata). Such data shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Confidentiality Requirements.

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

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

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

Date: \_\_\_\_\_

**FORM 6**  
**COMPENSATION WORKSHEET**

Proposers shall provide pricing based on the requirements and terms set forth in this RFP as if any exceptions submitted were not accepted by the City. Pricing must be all-inclusive and cover every aspect of the Work.

In completing the compensation worksheet, the following instructions should be followed:

1. All price increases over the term of the contract must be noted.
2. All prices are annual lump sum paid quarterly for the initial ten-year term of contract.
3. If/when there is an error in extension prices, the unit prices, when available, shall govern.
4. If/when exceptions are taken, pricing must reflect the requested items as stated in the Specifications and as if the exceptions were not accepted by the City. However, in a separate section Proposer shall include any cost savings attributed to the exceptions if accepted by the City.
5. All discounts should be computed into the prices offered where feasible. When a prompt payment discount is offered, it will not be considered in the award of the Contract except as a factor to aid in resolving cases of identical prices.
6. Additional costs associated with the Work must be added as separate line items to the worksheet (Form 6-A).

It is understood that the pricing, terms and conditions of this Proposal confirm with the requirements set forth in this RFP and are firm and irrevocable unless provided in writing to CLT.

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

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

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

Date: \_\_\_\_\_

**FORM 6-A**  
**FBO MANAGEMENT SERVICES BUDGET WORKSHEET**

**See spreadsheet on bid portal.**

**Submit final spreadsheet within PDF submittal.**



## SECTION 3: SCOPE OF WORK, STATISTICS & SAMPLE CONTRACT

### ATTACHMENT A SCOPE OF WORK

1. **Summary.** The scope of this Agreement shall be to manage a Fixed Base Operator (FBO) at the Airport on behalf of the City. The services include the full management and maintenance for a general aviation terminal, office space, hangars, ramp space, and landside vehicle parking ("Services"). For additional details on the current FBO site, including a site map, refer to Attachment A-1.
2. **Operational Structure:**
  - a. City will provide the existing facilities for the operation of the FBO, including some spaces licensed to tenants that will be managed by the Operator.
  - b. Operator will manage the FBO fuel farms and sell fuel on a retail basis on behalf of the City to general aviation and commercial aircraft operators at the FBO, including any corporate tenants and cargo operators who wish to purchase fuel.
3. **FBO Management Services.** The Services shall include all services usually and customarily provided by full service FBOs at large airports, including but not limited to the following:
  - a. General FBO Services
    - i. Provide the equipment and personnel sufficient to support the operation and maintenance of the FBO 24 hours, 7 days per week;
    - ii. Conduct the operation professionally and in accordance and compliance with applicable rules, policies, regulations, laws and good practices, including customer service standards, relative to the provision of aviation fuels and the handling of aircraft on behalf of the City;
    - iii. Maintain a Policy and Procedures Manual in electronic format, accessible by the City, describing its operations of the FBO at CLT. The manual will include, but not be limited to:
      1. Employee Training and Customer Service Procedures
      2. Procedures related to point of sale equipment and systems and payment acceptance, denial and collection procedures
      3. Fuel purchase, storage, dispensing and sale procedures;
      4. Facilities maintenance and cleanliness programs.

- iv. Maintain and ensure proper repairs of all equipment utilized by the Operator at CLT;
- v. Maintain an inventory of all CLT owned, leased, or borrowed equipment including condition of equipment;
- vi. Provide flight line service, including sale and into-plane delivery of aviation fuels, lubricants and other petroleum products all of which shall be purchased by the Operator;
- vii. Service all general aviation aircraft and other requested operations (charters), including de-icing, ramp assistance and services, arrival guidance, itinerant aircraft parking, towing in and out of aircraft hangars, catering, storage and tie-down, etc.;
- viii. Provide baggage handling services for general aviation and other non-scheduled aircraft and for airline aircraft as requested;
- ix. Waste disposal, both solid and liquid;
- x. Manage and operate CLT GA FBO fuel farms;
- xi. Provide first-class executive terminal services to include: flight planning assistance, conference and office facilities, pilot and customer lounges, and other commercially reasonable support services and facilities;
- xii. Provide Emergency and Irregular Operation Services to disabled aircraft on the Airport with the capability to tow disabled aircraft from the operational area of the Airport;
- xiii. Monitor, collect, record, remit and report to the City any and all revenues the Operator receives that are generated by the Operator's management and operation of the FBO, including:
  - 1. Landing fees;
  - 2. Ramp service fees;
  - 3. Fuel sales and service;
  - 4. Special service fees;
  - 5. Hangar rentals and charges; and
  - 6. Any other income, receipts and revenues;
- xiv. Assist CLT in managing and overseeing the contract management process for short-term FBO tenants who, per CLT's sole discretion, should be issued a license agreement or permit for the use of designated premise;
- xv. Performance of administrative duties related to contract management, including but not limited to: serving as Authorized Signer for all based tenant


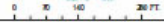
- badges, management of tenant parking access control, and compliance with tenant contract requirements;
- xvi. Provide on-Airport transportation, both airside and landside as required to support FBO Operations;
  - xvii. Respond promptly and professionally to all complaints relative to the FBO;
  - xviii. Make recommendations to the Airport relative to pricing for any materials, commodities, facilities, or services at the FBO, keeping in mind competition, demand and profitability to the City;
  - xix. Charge commercially reasonable fees to customers, using its expertise to balance the need to be competitive and to maintain profitability to the City;
  - xx. Prepare and monitor FBO Budgets, including both expenses and revenues. Control costs and expenditures; properly account for all receipts, cash or otherwise, from the management and operations of the FBO;
  - xxi. Consult with and make recommendations to the Airport relative to capital improvements and/or enlargements to enhance the quality of the FBO and/or Services;
  - xxii. Other duties as may be assigned by the Aviation Director to support the FBO Function at CLT.
- b. Reporting. The Operator shall furnish reports to CLT detailing the various aspects of the operation of the FBO as determined in the sole discretion of the City.
- c. Personnel.
- i. General Manager: Operator shall hire and assign a full-time General Manager, subject to approval by the Aviation Director, in accordance with Section I. 16. Said General Manager shall be assigned and employed full time to manage the FBO for Operator and City, shall maintain an office located at the FBO and shall remain in contact by cell phone when off premises.
  - ii. Alternate General Manager: Operator shall designate an alternate manager duly authorized by operator to act in place of the General Manager if/as needed.
  - iii. Personnel Standards. Operator shall instruct its employees to appear clean, neat, well-groomed, in uniform (if necessary), and professional on the job at all times and to discharge their duties in a cooperative, courteous and efficient manner.

4. **Compliance With Airport Operations and Security Measures.** Operator must ensure that the management of its operation acknowledges and complies with all Airport Operations and Security Measures.

**ATTACHMENT A-1**  
**FBO SUPPLEMENTAL INFORMATION**





	<p style="text-align: center;"><b>FBO South Campus</b></p>	  <small>Created by Raymond Galkia Map Date: 7/16/2024 Modified Date: 7/23/2024</small>
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	<p><b>FBO North Campus</b></p>	 0 50 100 200 FT Created by: Raymond Galicia Map Date: 7/16/2024 Modified Date: 7/29/2024
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**TABLE 1  
CLT FBO FUEL FARM TANKS AND CAPACITY**

Location	Tank Type	Quantity	Gallon Capacity	Total Gallon Capacity
<b>Main FBO Fuel Facility</b>				
	AvGas	1	20,000	20,000
	Jet A	5	20,000	100,000
	Jet A	4	12,000	48,000
	Diesel	1	500	500
	MoGas	1	500	500
	<b>Total Main FBO Fuel Facility</b>			<b>169,000</b>
<b>North Farm – FBO Managed</b>				
	Jet A	2	12,000	24,000
	<b>Total North Farm - FBO</b>			<b>24,000</b>
<b>North Farm – Leased to Tenants</b>				
	Jet A	4	15,000	60,000
	Jet A	2	12,000	24,000
	<b>Total North Farm - Leased</b>			<b>84,000</b>
<b>TOTAL</b>				<b>277,000</b>

The GA campus includes two aviation fuel farms owned by the City. The Main FBO Fuel Facility is comprised of 12 tanks. The North FBO Fuel Facility is comprised of eight tanks: two tanks that are managed by the Operator, and six tanks leased, managed, and maintained by two of CLT’s corporate tenants.

**TABLE 2  
CLT BASED AIRCRAFT**

Description	Count
Jet and Turboprops	71
Twin Piston	5
Single Piston	10
Helicopter	4
<b>TOTAL</b>	<b>90</b>

**TABLE 3  
CY2023 FUEL GALLONS**

Fuel Category	Gallons
JetA	5,272,550
Airline	347,425
Freight	154,282
Military	107,103
AvGas	28,019
<b>TOTAL</b>	<b>5,879,379</b>



**TABLE 4  
ASSETS ASSIGNED TO FBO**

ASSET	DESCRIPTION	MANUFACTURER NAME	MODEL	FIRST USE
21582	Aircraft Ground Power Unit Electric	Other	28.5vdcgpu	Nov-05
21585	Hangar Floor Scrubber Machine	Other	3400 33 Tomcat	Nov-05
21590	Diesel/Gas Aircraft Tow Tractor	Other	Tug Ma60	Nov-05
21608	Truck Mounted Aircraft Deicer	Other	Premier Mt43p21	Aug-06
21612	Ezgo Golf Cart Ct1 (Christine)	Other	Ex/Go Golf Ct1	Sep-05
21614	Tractors, Pushback	Other	Mc-22	Jan-06
21615	Power Supplies (Pull Behind)	Other	400-100	Jan-06
21616	Trucks Beltloader	Other	660-1	Jan-06
21617	Passenger Stairs (Airstairs 2)	Other	Wasp Ao4973d	Jul-05
21618	Trucks Beltloader	Other	660-1	Jan-06
21623	Cat Forklift (Battery)	Caterpillar	Ec18ks/C35tt	Sep-06
21642	Carts,Industrial Lav1	Other	As-Lc150g	Dec-06
21643	Truck-Boarding Stairs F350	Ford	F-350 Air Stairs	Dec-06
21644	Airstart/Huffer Airstair 1	Other	85-184	Dec-06
21647	Trucks, Airstair 3	Other	720wa5236d	Dec-06
21671	Yamaha 6 Passenger Golf/Utility Crt	Yamaha		Sep-07
21672	Aircraft Tug Lektr 5	Lektro	Ap8850sda Lktr 5	Sep-07
21673	Hobard Jex-Ex 5d	Other	Jex-Ex 5d Gpu4	Nov-07
30605	Airport Tug Wac	Lektro	Ap8750cs-Al	Oct-15
30606	Airport Tug Wac	Lektro	Ap8750cx-Al	Oct-15
30608	Ford 150	Ford	F150	Dec-15
31481	Ezgo Shuttle	Carolina Golf Cars	Ezgo Express S6	Oct-16
31543	2015 Ze Go Golf Cart	E-Z-Go	S4	Mar-16
31707	Vehicle Transponders			Jul-16
32158	Ford F-250 W/83793	Ford	F-250	May-17
32169	Ford F-250 Lavatory Truck	Ford	F-250	Jun-17
32176	Ford F-250 With 83794	Ford	F-250	Jun-17
32209	Genie Air Man Lift Wac	Genie	Z45/25, 2w Rt	May-17
32895	Ford F350	Ford	F-350	Dec-17
32897	Lavatory Service Cart	Aero Specialties		Dec-17
32900	Lavatory Service Cart	Thecnologies Corporation		Dec-17
32901	Lavatory Service Cart	Thecnologies Corporation		Dec-17

33445	Wilson Air Center Stair Truck	Aero Specialties		Feb-18
34145	Aviation Air Belt Loader	Aero Specialties	Tld_Nbl	Dec-18
34146	Aviation Air Belt Loader	Aero Specialties	Tld_Nbl	Dec-18
34783	Wilson Air Buses	Eldorado National	Aerotech Chevy 2	Feb-19
34784	Aviation Wilson Air Bus	Eldorado National	Aerotech Chevy 2	Feb-19
34838	Ford F-550 Snow Trk Wac	Ford	F-550	Mar-19
35143	Aviation Jetgo Gpu W/Spotlight	Aero Specialties	Jetgo Gpu	May-19
35144	Aviation Jetgo Gpu W/Spotlight	Aero Specialties	Jetgo Gpu	May-19
35145	Tld Gpu 409 E Cup 29 90kva	Aero Specialties	Tld Gpu 400	Jun-19
35210	Avia Wilson Air Snow Truck Body	Godwin	12' Flatbed	Aug-19
35530	Avia Power Scrubber	Grainger	M-T16	Oct-19
36695	Avia Ford Transit 250	Ford	Transit	Jan-20
38233	Avia Tugs For Wilson Gse	Aero Specialties	Asu-600	Sep-20
38234	Avia Tektro Aircraft Tug	Lektro	Ap8750cx-AI	Mar-20
38235	Avia Tektro Aircraft Tug	Lektro	Ap8850sda	Mar-20
41969	Avia Portable Water Cart	Advance Gse Corp		Sep-23
43498	Avia Generator	Carolina Tractor And Equipment Company	Wilson	Feb-24

**ATTACHMENT B**  
**SAMPLE CONTRACT**

FBO SERVICES MANAGEMENT AGREEMENT

between

CITY OF CHARLOTTE

and

---

for

CHARLOTTE DOUGLAS INTERNATIONAL AIRPOR

**THIS FBO SERVICES MANAGEMENT AGREEMENT** ("Agreement"), dated **[Insert Date]** ("Effective Date"), by and between the CITY OF CHARLOTTE, a North Carolina municipal corporation ("City"), and **[Operator Name]**, a **[Insert Operator Entity Type]** existing under the laws of the State of **[Insert State]** ("Operator"),

**THAT, WHEREAS**, City is owner and operator of Charlotte Douglas International Airport ("Airport");

**WHEREAS**, City issued a request for proposals on **[Insert Date]** to identify and select a company interested in providing fixed base operator (the "FBO") services at the Airport; and

**WHEREAS**, City selected and Operator desires to manage and operate the FBO at the Airport pursuant to the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the premises, the terms and conditions hereinafter contained and set forth, the Parties hereby mutually agree as follows:

## **AGREEMENT**

### **1. EXHIBITS**

The following Exhibits are attached to the Agreement and incorporated into and made a part of this Contract by reference:

Exhibit A: Services

Exhibit B: FBO Property Map

Exhibit C: Proposal

Exhibit D: Sublicense Agreement

Exhibit E: CBI Form 4

Any conflict between language in Exhibits and the Agreement shall be resolved in favor of the main body of this Agreement.

## 2. DEFINITIONS

The following words, terms, and phrases whenever used in this Agreement shall have the following meanings:

- a. **Agreement** shall mean these terms and conditions under which the Operator provides the Services to the City and any subsequent amendments.
- b. **Airport** shall mean Charlotte Douglas International Airport.
- c. **Allowable Operating Expense** shall mean those expenses arising from operation of the FBO and approved by City as set forth in the Final Budget (as amended from time to time) and shall be net of any and all discounts and allowances earned and/or realized by Operator for the Services or as a result of doing business at the Airport.
- d. **Annual Accounting** shall mean the yearly financial summary provided to the City and as further described in Section 6(c).
- e. **Capital Request** shall mean the list of capital expenditures proposed by the Operator to the City for the next Contract Year. The Capital Request shall contain Operator's requirements for facilities and equipment costing over \$5,000 per item.
- f. **CBI Program** shall mean the City's Charlotte Business Inclusion Program as further described in Section 7(g)iii.
- g. **Certified Annual Revenue Statement** shall mean the annual report submitted by the Operator and provided by a certified public accountant as further described in Section 6(e).
- h. **City** shall mean City of Charlotte as to the legal entity and specifically the Aviation Department as to any obligation, authority or required approval set forth in this Agreement.
- i. **City Tenant Property** shall mean the facilities, spaces and hangars within the FBO

- that the City leases and manages, as may be amended per the terms of this Agreement.
- j. **Confidentiality Requirements** shall mean the obligations executed by the Operator and included in **Exhibit C**.
  - k. **Contract Year** shall mean July 1 to June 30 each year of the Term except for the first Contract Year which shall start as of the Effective Date and end June 30, 2026.
  - l. **Control** shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Operator or (ii) the power to direct or cause the direction of the management and policies of the Operator whether through the ownership of voting securities, by contract or otherwise.
  - m. **Deliverables** shall mean the work, materials and information provided or created under this Agreement as further described in Section 18(p).
  - n. **Effective Date** shall mean the date first stated above.
  - o. **Environmental Laws** shall mean and include, without limitation, all federal, state and local statutes, regulations, rules, codes, or permits, applicable to the FBO, imposing liability or standards of conduct or responsibility or design, construction or operating technical standards concerning or otherwise relating to environmental or public health and safety matters at the FBO whether now in force or as amended or enacted in the future, including, but not limited to: CERCLA, RCRA; CAA; CWA; SDWA; TSCA; OPA; and the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§ 11001, et seq.).
  - p. **Executive Terminals** shall mean the passenger terminal building(s) at the FBO.
  - q. **FAA** shall mean the Federal Aviation Administration.

- r. **FBO** shall mean fixed based operator and shall include all the property included in **Exhibit B**.
- s. **FBO Account** shall mean the bank account in the City's name and as further described in Section 5(b).
- t. **FBO Services** shall mean the portion of the Services that are provided to all users of the FBO by the Operator and as further described in Section 4(a).
- u. **FBO Tenant Property** shall mean the facilities, spaces and hangars which the Operator shall be responsible for providing Property Management on behalf of the City, as may be amended per the terms of this Agreement.
- v. **Final Budget** shall mean the annual operating budget and capital expense submitted to and approved by the City for each Contract Year, and as amended per the terms of this Agreement. The Final Budget shall, at a minimum, include a detailed projection of Operating Revenue and Allowable Operating Expenses.
- w. **Financial Summary Report** shall mean the monthly financial report prepared by Operator detailing the prior month's financial performance from operating the FBO. In addition to performance for the immediately prior month, the Financial Summary will also include the year-to-date information for the then-current Contract Year.
- x. **Hazardous Material(s)** shall mean any substance(s): (i) the presence of which requires investigation or remediation under any applicable federal, state, or local law, statute, regulation, rule, ordinance, order, action, policy or common law; or (ii) which is or becomes defined as a hazardous substance, hazardous material, toxic substance, toxic material, pollutant or contaminant under any applicable law or federal, state, or local statute, regulation, rule or ordinance or amendments thereto including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA," 42 U.S.C. §§ 9601 et seq.), the Solid Waste Disposal Act, as amended

by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 ("RCRA," 42 U.S.C. §§ 6901 et seq.), the Clean Air Act ("CAA," 42 U.S.C. §§ 7401 et seq.), the Federal Water Pollution Control Act ("CWA," 33 U.S.C. §§ 1251 et seq.), the Toxic Substances Control Act ("TSCA," 15 U.S.C. §§ 2601 et seq.), the Safe Drinking Water Act ("SWDA," 42 U.S.C. 300f et seq.), the Oil Pollution Act ("OPA," 33 U.S.C. §§ 2701 et seq.) and North Carolina equivalent laws; or (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority; or (iv) the presence of which on the FBO causes or threatens to cause a nuisance upon the FBO or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the FBO; or (v) without limitation which contains gasoline, diesel fuel, petroleum hydrocarbons, petroleum distillates or other petroleum constituents; or (vi) without limitation which contains polychlorinated biphenyls (PCB's), asbestos or urea formaldehyde insulation.

- y. **Initial Term** shall mean the first ten (10) years of this Agreement as set forth in Section 5(a).
- z. **Management Fee** shall mean the fixed amount paid or to be paid to Operator per Contract Year as set forth in Section 5(a) for the Services.
- aa. **Monthly Meeting** shall mean the meeting between the City and the onsite Operator team to discuss the operation of the FBO and the Operator's provision of the Services as further described in Section 6(d).
- bb. **Net Revenues** shall mean the total Operating Revenues after deducting Allowable Operating Expenses, Uncontrollable Expenses, and sales, use and other taxes remitted on behalf of the City by Operator related to the FBO during a Contract Year.
- cc. **Operator** shall mean **[Insert Operator Name]**.



- dd. **Operating Account** shall mean the bank account in the Operator's name and as further described in Section 5(c).
- ee. **Operating Revenue(s)** shall mean all revenues of the City attributable to the FBO and shall include the gross amount of all monies received or receivable by Operator in connection with this Agreement whether on a cash or credit basis. Operating Revenue shall include but not be limited to, fuel sales receipts, ramp fees, landing fees collected for City by Operator, hangar rentals, and parking receipts collected from customers regardless of when or where the transactions are made or the services are rendered but shall not include all applicable sales taxes and other taxes remitted to the proper authority for the activities at the FBO by the Operator on behalf of the City. Operating Revenues shall not include gratuities paid to Operator's employees.
- ff. **Parties** shall mean the City and the Operator collectively.
- gg. **Property Management** shall mean the activities provided by the Operator as described in Section 4(a).
- hh. **Quarterly Review** shall mean the meeting held at least quarterly between the City and Operator to discuss Operator's financial performance.
- ii. **Renewal Term** shall mean each two-year renewal period for this Agreement as set forth in Section 5(b).
- jj. **Release** shall mean and include, without limitation, any and all spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, seeping or disposing in the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material(s) or pollutant(s) or contaminant(s)).
- kk. **Revenue Share** shall mean the percentage of Net Revenues set forth in Section 5(a)

- minus any payments owed to the City for uncollectable revenue or other fees and charges as set forth in this Agreement.
- ll. **Security Badges** shall mean the Transportation Security Administration regulated security access media issued by the City for access to the secured areas of the Airport and as further described in Section 10(a)vii.
  - mm. **Services** shall mean the operation and management of the FBO as further described in this Agreement and **Exhibit A**.
  - nn. **Sublicense** shall mean the form license mutually agreed to by the Parties for the Operator's use in the sublicensing of the FBO Tenant Property and attached to this Agreement as **Exhibit D**.
  - oo. **Term** shall mean the length of this Agreement, including all renewals as set forth in Section 3.
  - pp. **Title VI List of Pertinent Nondiscrimination Acts and Authorities** shall mean the list of nondiscrimination laws set forth in Section 7(c)iii.
  - qq. **Treasure's IB List** shall mean the list designated by the NC State Treasurer pursuant to N.C.G.S. 147-86.81 identifying a company as engaged in the boycott of Israel.
  - rr. **Treasure's IDA List** shall mean the final divestment list or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58.
  - ss. **Uncontrollable Expenses** shall mean the amount of the expenditures incurred by Operator for or in connection with the FBO and the operation thereof by Operator, agreed to by the Aviation Director, which are not Allowable Operating Expenses included in the Final Budget.

### 3. TERM AND RENEWAL

- a. **Term.** The initial term of this Agreement is ten (10) years from July 1, 2025 ("Initial

Term"). Prior to the Initial Term, and starting as of the Effective Date, the Operator shall provide the transition services as defined in **Exhibit C**.

- b. **Options to Renew.** The parties agree that upon the expiration of the Initial Term or any subsequent renewal, the Agreement shall automatically renew for an additional two years ("Renewal Term"), unless either party gives the other party no less than six (6) months' written notice of its intent to not renew. However, at no time shall this Agreement extend past the expiration of the fifth Renewal Term which shall expire on June 30, 2045. The Initial Term and all Renewal Terms are collectively referred to as "Term."

#### **4. FBO MANAGEMENT**

- a. **Services Generally.** Operator shall do all usual and customary things necessary to manage and operate the FBO in a responsible manner and to provide first class customer service and satisfaction to a degree reasonably acceptable to the Airport and as further set forth in **Exhibit A** (collectively, the "Services"). Operator shall manage and direct the Services for the benefit of City and in accordance with accepted sound general aviation business practices and any standards established by the City. Such Services shall include the general support for all FBO tenants, including without limitation, fueling, towing, aircraft parking, apron service, de-icing, ground handling, and executive terminal services ("FBO Services") as well as provide general landlord services and oversee, manage and contract for certain tenant spaces located within the FBO ("Property Management"). Fees for Services established by the Operator shall be approved by the City prior to assessment. Additionally, the City shall have the reasonable right to require Operator to adjust the prices of all FBO Services or any Property Management rates or fees. Operator shall have the right to adjust prices and offer discounts on a commercially reasonable basis to the extent needed to compete for business with advance written approval from the City. Further the City shall have

the right to require changes to service levels, staffing and operations procedures employed by Operator so as to enhance customer service, comply with regulatory requirements and/or ensure a safe and secure environment or for any other reason that the City in its opinion believes is for the benefit of the operation of the FBO.

b. **Property and Equipment Management.** The Operator shall be responsible for providing the FBO Services for all tenants and users within the boundaries of the FBO as set forth in **Exhibit B** and provide all necessary goods, services, technology and equipment to properly provide the Services.

i. **FBO Tenant Property.** The property identified as "FBO Tenant Property" is hereby licensed to the Operator in order for the Operator to sublicense such space subject to the terms and conditions of the mutually agreed upon Sublicense Agreement attached as **Exhibit D** and the terms and conditions of this Agreement. The Operator shall consult with the City on removal of existing or the addition of new sublicensees and any changes to the license fees charged for use of FBO Tenant Property.

ii. **Changes to the FBO Tenant Property.** The City, in its sole discretion, after consultation with the Operator, shall have the right to determine which property within the FBO shall be considered FBO Tenant Property or City Tenant Property. At anytime during the Term, and subject to any notice or other contractual obligation in the Sublicense Agreement, the City shall have the right to remove or add property to the FBO Tenant Property. Where property is removed and changed to City Tenant Property, the Operator shall still be obligated to provide the FBO Services to the tenants within that space. Where property is added to the FBO Tenant Property, the Operator shall be responsible for providing Property Management on behalf of the City for such space.

iii. **Alterations and Signs.** Operator shall not structurally alter the FBO in any way

whatsoever, erect any signs nor consent to any advertising on FBO property without prior written approval from the City.

iv. **Property Improvements and Equipment**

- i. **Safekeeping.** Operator shall establish appropriate controls, subject to review and approval by the City, to prevent pilferage, thefts, disappearances or other losses of property and equipment. Any liability for such loss shall be the responsibility of the Operator, including, without limitation, the replacement cost of any item, unless such loss was solely due to an act or omission of the City.
- ii. **City Approval.** Operator shall be responsible for the provision of all goods, services, technology, and equipment necessary to provide the Services. Prior approval may be required for acquisition of certain goods, services, technology or equipment and such approval is contingent on the Operator's compliance with all City processes. Such processes may include, without limitation, design review, IT review, and diversity program compliance.
- iii. **Title and Warranty.** All property, equipment, goods, and/or technology purchased by the Operator on behalf of the City, whether authorized through the Final Budget or separately in writing, shall remain the property of the City with title vesting in the City upon delivery of such item to the Airport, unless otherwise agreed to under separate agreement between the Operator and the City. Operator shall ensure that any warranty is also in the City's name and copies of such are readily available.
- iv. **Procurement.** As acquisition under this Agreement is on behalf of the City and reimbursed or directly paid for by the City, procurement must be in compliance with the procedures governing letting public contracts as set forth in the North Carolina General Statutes, including without limitation Chapters 133 and 143.

- v. **Record-keeping.** On or before the Effective Date, on or before the last day of each Contract Year, if requested by the City and on or before the termination of this Agreement, the Operator will take an inventory of all goods, technology, equipment, and property belonging to City. Such report shall include the remaining useful life for each item and with the report provided upon termination, the estimated fair market value of each item. Operator throughout the term of this Agreement shall maintain a current and up-to-date capital inventory listing and regularly advise the City, in writing, of all additions to or deletion from the inventory. Further, the Operator shall maintain all records necessary to demonstrate compliance with the obligations set forth in this section, including, without limitation, transfer of title and warranty, compliance with procurement procedures and obtaining all necessary approvals.
- c. **No Other Services.** Operator shall provide no other services to or on behalf of City other than those authorized and agreed to pursuant to this Agreement. Operator will engage in no other business activities on or in connection with the Airport, whether as principal or otherwise, without the express written approval of the City, which shall not be unreasonably withheld. In no case shall additional work be provided at the Airport by the Operator for a third-party without the Operator first executing a Commercial Use Permit with the City.

## 5. FINANCIAL ARRANGEMENTS

- a. **Fee Basis.** Operator shall provide the Services for a flat fee equal to \$\_\_\_\_\_ per Contract Year ("Management Fee") plus a six percent (6%) Revenue Share. The Management Fee shall be paid quarterly in advance by City in four equal installments. The Revenue Share shall be paid within ninety (90) days following the submission of the Certified Annual Revenue Statement following completion of each Contract Year.
- b. **Collection and Deposit of Operating Revenues.** Operator shall use industry

standard and commercially reasonable efforts to collect all Operating Revenues and applicable sales taxes. City shall establish and maintain a bank account in City's name ("FBO Account") in a local banking institution into which account Operator shall deposit daily all Operating Revenues collected minus any applicable taxes collected for the provision of the Services. Operator will remit applicable taxes to the proper taxing authority on behalf of the City.

- c. **Payment of Allowable Operating Expenses.** Operator shall establish and maintain a bank account in its own name ("Operating Account") for the purpose of disbursing payments on behalf of the City for Allowable Operating Expenses. The Operating Account shall contain only those funds to be used in connection with fulfilling its rights and obligations under this Agreement and shall not be comingled with funds of any other operation of the Operator or any parent company or subsidiary of the Operator. Operator shall use a FDIC insured account and may utilize an interest-bearing account with the written permission of the City. Any interest so accrued will be the City's revenue. On a quarterly basis throughout each Contract Year, City shall deposit in the Operating Account (i) an amount equal to the quarterly pro rata amount of the Allowable Operating Expenses of the Final Budget for the Contract Year for which such deposit is made, and (iii) any advances requested and approved as allowed under the terms of this Agreement. Operator shall be responsible for paying for all expenses and costs incurred for the provision of the Services and shall be liable to the City for any cost the City directly incurs due to the non-payment of these expenses or misuse of the Allowable Operating Expenses.
- d. **Payment for Uncontrollable Expenses.** City acknowledges that Operator may incur Uncontrollable Expenses during one or more Contract Years. Should Operator anticipate any Uncontrollable Expenses it will promptly notify the City to request approval for any such expense. Such approval shall only be granted after the Operator meets with the City to explore means to avoid or mitigate the amount of

such Uncontrollable Expenses. The City shall in good faith promptly consider the causes of the Uncontrollable Expenses. To the extent City agrees that these expenses are necessary and that said Uncontrollable Expenses were not the result of negligent, willful, wanton, intentional acts or omissions of the Operator (excepting intentional acts deemed necessary by the Operator to prevent danger to life or damage to property), the City shall authorize and advance payment for such Uncontrollable Expenses to the Operating Account.

- e. **Prompt Payment.** Provided there has been no delay or default by City in making necessary funds available to it, Operator shall make prompt and timely payment of all its obligations arising out of this Agreement so as to maximize the potential for available discounts and commissions. All discounts, allowances, premiums, and commissions paid or received hereunder shall be to the credit and benefit of City. Operator shall pay from its own funds any penalty, fine or like assessment resulting from any late payment of any such obligation unless such delay was a result of the City's delay in payment of the Allowable Operating Expenses or approved Uncontrollable Expense.
- f. **Reconciliation of Uncollectible Credit Charges and Cash Losses.** Operator shall act as custodian of and safeguard of all Operating Revenues until deposited with City. All uncollectible credit card charges and cash losses, including those arising out of the criminal acts of officers, employees or agents of Operator, shall be the responsibility of Operator. Any uncollectible credit chargers or cash losses caused by a criminal act must be supported by copies of filed police reports. For each Contract Year, Operator shall prepare an itemized listing for cash losses, dishonored checks and uncollectible credit card charges which shall be supported, as applicable, by photocopies of each check and credit card charge claimed (charge-back). In addition, Operator shall provide a written explanation of the reason the charge is uncollectible. Such losses shall be the responsibility of the Operator and reimbursed to the City through the Revenue Share.



## 6. BUDGET, REVIEWS AND REPORTS

- a. **Annual Operating Budget.** Each year during the Term and no later than 270 days before the next Contract Year or by a different deadline at the written request of the City, Operator shall submit for City approval a proposed annual operating budget and Capital Request for the next Contract Year. Within thirty (30) days of receipt of the annual operating budget and Capital Request from Operator, the City will either accept or reject the annual operating budget and Capital Request or propose modifications. Upon approval and no later than the first day of the next Contract Year, the annual operating budget and Capital Request will be considered finalized (the "Final Budget"). In the event of a disagreement between the parties with regard to any item in the proposed annual operating budget and Capital Request or Final Budget, the City's decision, after consultation with the Operator, with respect to such item shall be final. Final Budget overruns by any amount in any given quarter, absent prior written approval from the City for an Uncontrollable Expense, shall be the responsibility of the Operator and paid for through the Operator's funds. If there are material changes in market or operational conditions after the creation of the Final Budget, the Operator may propose revisions to the Final Budget as part of the Quarterly Reviews.
- b. **Financial Summary Reports.** As soon as practical but no later than thirty (30) days following the end of each month, Operator shall provide City with a Financial Summary Report which details the prior month's financial performance in terms of Operating Revenues, Allowable Operating Expenses, Uncontrollable Expenses and Net Revenues. The Financial Summary Report shall be in a format reasonably acceptable to the City, including without limitation, the technology through which such information is submitted. Operator will also submit detailed general ledger accounting reports and detailed payroll and expenditure reports to support these monthly Financial Summary Reports and the expenditure of the Allowable Operating

Expenses in the previous month. Financial Summary Reports must be submitted even when there are no revenues collected in a given month.

- c. **Quarterly Reviews and Annual Accounting.** Operator shall measure and report its performance and the results of its operations of the FBO for each Contract Year during the Term. Such report shall be presented to the City during the quarterly meeting with the Operator's Chief Financial Officer or other official who has the ability to speak in detail about the financial performance of the FBO and who has the authority to negotiate and agreed to any changes to the Final Budget, unless mutually agreed to by the parties to cancel. Operator's report on such performance should include, without limitation, its statement of Operating Revenues, Allowable Operating Expenses and Net Revenues for the periods being reported ("Quarterly Review"). The last such Quarterly Review after the close of each Contract Year shall cover the entire Contract Year (such fourth Quarterly Review being referred to herein as the "Annual Accounting"). The Annual Accounting shall set forth the Operating Revenues, Allowable Operating Expenses and Uncontrollable Expenses and Net Revenues for the Services under this Agreement for the entire Contract Year. During Quarterly Reviews, Operator will have the opportunity to discuss and propose amendments to the Final Budget necessitated by material changes in market or operational conditions not contemplated in the Final Budget; such changes, if any, may only be made following the written approval of the City, which shall not be unreasonably withheld.
- d. **Monthly Operational Meetings.** On a monthly basis the Operator, represented by the onsite FBO management team, shall meet with the City to review the FBO operations from the previous month ("Monthly Meeting"). At a minimum, the Parties shall discuss concerns or issues with FBO tenants, upcoming events or special activities, outstanding items and a general update on the operation, including any updates for pending approved capital equipment purchases.

- e. **Certified Annual Revenue Statement.** At the conclusion of each Contract Year during the Term, Operator shall employ an independent Certified Public Accountant, approved by the City, who shall provide a written statement to the City within one hundred and twenty (120) days after the end of each Contract Year, stating whether, in its opinion, the Allowable Operating Expenses paid by the City to the Operator and the Operating Revenues collected by the Operator and delivered to the City during the preceding year pursuant to this Agreement were or were not the accurate monies due in accordance with the terms of this Agreement. Operator shall immediately correct any inaccuracies identified, including immediately remitting any monies due to the City.
- f. **Fuel Usage.** Operator shall provide to the City on a weekly basis a report of the fuel sold in the prior week, including, at a minimum, the party to which the fuel was sold, the price at which the fuel was sold and how many gallons of fuel were sold. Such report should also include a summary of how much fuel is on hand, any fuel deliveries occurring in the next week and current and/or expected fuel prices for the next week.
- g. **Other Reports.** The City shall have the right to request additional reports related to any aspect of the operation of the FBO during the Term. Such report shall be provided in a format and submitted through a technology solution determined by the City, as may be amended by time from time. Such report shall also be submitted within and for the timeframe established by the City but at no point shall any newly requested report be provided later than the next Monthly Meeting, unless such is agreed to by the Parties.

## 7. CITY'S RIGHT TO AUDIT

During the Term, Renewal Term, and for three years after the termination or expiration of this Agreement:

- a. **Audit of Records.** The City shall have access to any books, documents, papers and records of the Operator, which are directly related to this Agreement for the purpose of making audit, examination, excerpts and transcripts. Such records shall be kept for three

years upon the termination or natural expiration of this Agreement.

- b. **Audit Request.** Operator, upon written request by the City, shall make all the necessary records for audit available at the Airport or shall pay in advance for the full cost of any travel or related expense in order for a representative of the City to audit the records in another location. The documents must be available within fourteen (14) days of receipt of the written request.
- c. **Understated Revenues or Overstated Expenses.** If, as a result of an audit, it is established that Operator has understate revenue generated by the FBO in any amount or overstated the Allowable Operating Expenses by five percent (5%) or more, Operator shall be liable to the City for the monies owed to the City, including eighteen percent (18%) per annum interest from the date such revenue was owed to the City or such expenses were paid to the Operator and for the entire expense of said audit.

## **8. FEDERAL OBLIGATIONS AND GOVERNMENT AGENCY RELATIONSHIPS**

- a. **Grant Assurances.** Operator shall comply with all of the Federal Aviation Administration ("FAA") Grant Assurances, as amended from time to time and as applicable to the City, in its operation of the FBO and the provision of the Services.
- b. **Federal Policies, Orders, Regulations, Directives, Guidance and Advisories.** Operator shall comply with all Federal agency policies, orders, regulations, directives, guidance and advisories applicable to the operation of the FBO and the provision of the Services. Such compliance shall include, without limitation, enacting polices, procedures and processes to ensure all FBO Tenant Property meets the FAA's Hangar Use requirements.
- c. **Relationship with Government Agencies and Officials.** Operator must liaise with the City regarding all communications with Federal, State, and Local officials, regulators, and law enforcement. The Operator shall not communicate directly with any of these agencies on behalf of the Airport, regarding operational matters at the Airport or the FBO, or regarding changes to process/procedure that may have a

regulatory impact, without express permission of the City.

## **9. ENVIRONMENTAL REQUIREMENTS**

- a. Operator shall not cause, permit or suffer any Hazardous Material(s) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the FBO (except Operator shall not be responsible for the portions of the FBO considered CLT Tenant Property) or any portion thereof by Operator, its agents, employees, contractors, invitees or permitted subtenants or assigns or any other person, except in strict compliance with Environmental Laws.
- b. Operator shall not cause, permit or suffer the existence or the commission by Operator, its agents, employees, contractors, invitees, subtenants, or by any other person under Operator's control, of a violation of any Environmental Laws upon, about or beneath the FBO or any portion thereof.
- c. Operator shall not create or suffer to exist with respect to the FBO (excluding CLT Tenant Property), or permit any of its agents, employees, contractors, invitees, subteants or any other person under Operator's control to create or suffer to exist any lien, security interest or other charge or encumbrance of any kind against the FBO arising out of any Environmental Laws or any other statute or regulation. Should any such lien, security interest or other charge or encumbrance be filed against the FBO, Operator shall cause said lien, security interest or other charge or encumbrance to be removed from the FBO or shall provide a bond satisfactory to City for the payment or satisfaction thereof. Said actions shall be taken by Operator as soon as practicable from the filing, posting or notice of such lien, security interest or other charge or encumbrance; provided that said actions shall be taken in no event later than thirty (30) days from the filing, posting or notice of such lien, security interest or other charge or encumbrance.
- d. Operator covenants and agrees, at its sole cost and expense, to defend, indemnify and hold harmless City from and against any and all damages (including without limitation all

foreseeable and unforeseeable consequential damages), losses, liabilities, obligations, penalties, costs (including without limitation, the cost of any required or necessary inspection, audit, cleanup, removal, remediation or detoxification and the preparation of any closure or other required plans, consent orders, permits, license applications, or the like), personal injury or death, damage to property, claims, litigation costs, disbursements or expenses including, without limitation, attorneys' and experts' fees and disbursements which may at any time be imposed upon, incurred by or asserted or awarded against City, and arising from out of and to the extent caused by or the allegations thereof: (i) the use, generation, storage, disposal of or the release of any Hazardous Materials by Operator, its employees, agents, contractors, subtenants or any other person under Operator's control upon, about, beneath or affecting all or any portion of the FBO or any surrounding areas, where such surrounding areas have been contaminated as a result of the use or Release of Hazardous Materials by Operator, its employees, agents, contractors, subtenants or any other person invited by or under the control of the Operator; or (ii) the enforcement of this Agreement as to matters concerning this Section arising after the Effective Date whether or not any claims prove to be true or false.

- e. Operator shall, upon demand of City, and at Operator's sole cost and expense, promptly take all action to remove and/or remediate Hazardous Materials upon, about or beneath the FBO (excluding CLT Tenant Property) which action is: (i) required by any federal, state or local governmental agency or political subdivision; or (ii) which is reasonably necessary to remove and/or remediate any Hazardous Materials from the FBO (excluding CLT Tenant Property) and restore the FBO (excluding CLT Tenant Property) to compliance with Environmental Laws. Any such removal and/or remediation shall be performed in a good, safe and workmanlike manner and shall minimize any impact on the business operations of the City or other tenant at, in or adjoining the FBO. Operator shall, at its own cost and expense, comply with all applicable laws while performing said removal and/or remediation. Operator shall take all actions necessary to restore the FBO

(excluding CLT Tenant Property to the condition existing as of the date hereof, notwithstanding any lesser standard of remediation allowable under applicable law or governmental policies.

- f. Should Operator its employees, agents, contractors or any other person cause, directly or indirectly, or permit any intentional or unintentional Release of Hazardous Materials upon, about or beneath the FBO, whether or not such Release results in damage to soil, surface water, ground water, flora, fauna or humans on the FBO, or within waters of the state or the United States, or on other properties, Operator shall promptly notify all federal, state and local regulatory agencies of the Release as required by law and shall notify City of the Release, in writing, within seven (7) days of determining that a Release has occurred. Operator shall further notify City within seven (7) days after the receipt by Operator of notice of any demand or claim or the commencement of any action, suit or proceeding in respect of any of the matters referenced in this paragraph. It is expressly understood and agreed that failure by City to object to any actions taken by Operator hereunder shall not be construed to be an approval by City of Operator's actions, nor shall it be construed as a waiver by City of any right related thereto.
- g. City, its agents, consultants or contractors shall, at all times, be free to inspect the FBO. City may independently establish to its satisfaction and in its absolute discretion the existence or non-existence of any fact or facts, the existence or non-existence of which is relevant to any claim or defense of any matter related herein, and Operator shall allow City, its agents, consultants or contractors access to the FBO as is necessary to establish such facts.
- h. Should Operator fail to perform or observe any of its obligations or covenants contained in this section, then City shall have the right, but not the duty, without limitation upon any of the other rights of City pursuant to this Agreement, to enter the FBO itself or through its agents, consultants or contractors and perform the same. Operator agrees to reimburse the City for any actual costs incurred from such action and indemnify any

liabilities therefrom. Notwithstanding anything to the contrary in this Agreement, the provisions of this section shall survive the termination of this Agreement.

## **10. SAFETY & SECURITY**

- a. **Compliance With Airport Operations and Security Measures.** Operator shall ensure that the management of its operation complies with the obligations set forth below.
  - i. Operator is required to comply with all Federal, State, and Local laws, regulations, ordinances, and airport-specific rules and requirements at all times.
  - ii. Operator must ensure that the Services are in compliance with the Airport's Part 139 Certification and the Airport Security Program, including all Security Directives and Program Amendments set forth or approved by the Transportation Security Administration.
  - iii. Operator will be required to establish and maintain an escorting plan to support movement of personnel to/from aircraft and to/from facilities on the Air Operations Area and within other regulated areas. This plan and any future modifications must be coordinated with and approved by the City. Operator shall comply with all Airport rules, standards or directives related to special events, in addition to liaising with the appropriate code enforcement entities. All special events hosted at the FBO will require, at minimum, a 60-day advance notice to the City and shall abide by the Airport Event Policy and Procedures.
  - iv. Operator must share all standard operating procedures, operating guidelines, and policies with the City. Any updates to these documents will require notification to the City prior to making the changes effective. The City reserves the right to provide input on procedures to ensure regulatory compliance.
  - v. Operator is required to disclose any information related to security incidents, accidents, and other impactful activity to Airport safety or security as soon as the information is discovered. The Operator shall notify the City any time a subtenant or other user of the FBO reports an incident, accident, or other impactful activity.



Operator shall not take incident, accident, liability, or other impactful event reports on behalf of the City, unless specifically requested by the City.

- vi. Operator may not solicit their own security services without City permission. Security services (security guards, law enforcement, armed guards, etc.) are a City-provided service.
  - vii. All of Operator's employees responsible for any obligation under this Agreement, shall apply for and qualify for security identification badges ("Security Badge(s)") issued by the City.
  - viii. Operator shall accompany and ensure its employees comply with the Airport's Security Standards and AOA Standards, as amended from time to time, which can be found at [www.cltairport.com/credentialing](http://www.cltairport.com/credentialing).
  - ix. Operator may also have to comply with additional project specific requirements as determined by the City in its sole discretion from time to time.
  - x. City shall not be liable to Operator for any diminution or deprivation of Operator's rights hereunder on account of the inability or delay of Operator or his officers or employees to obtain a Security Badge, regardless of the reason.
  - xi. Pursuant to the discretion of the City, the Operator may be required to designate at least two personnel as "authorized signers." The authorized signers must hold a valid Airport Security Badge and are responsible for all required training and the completion of all required documents and process steps to secure and retain valid Airport Security Badge for Operator's employees and its subcontractor's employees. The authorized signers may need to conduct these activities at the Airport.
- b. **IT Security Requirements.** The Operator shall comply with the City's IT security requirements for any technology good, service or software provided under this Agreement. Any suspected or actual cyber security breach shall be reported to the City within twenty-four (24) hours of the Operator becoming aware of any such suspected or

actual cyber security breach. This requirement shall be passed down to any subcontractor which provides technology services or software for the Operator in support of the provision of the Services under this Agreement.

c. **Safety and Health.**

- i. **Compliance.** The Operator agrees that it will provide a safe and healthy workplace and to correct any unsafe condition or safety or health hazard. This includes the Operator's commitment to comply with all federal, state and local laws and regulations related to safety, including, without limitation, the requirements of the Occupational Safety and Health Act, and the City's Safety Management System at the Airport. The Operator agrees to promptly investigate all hazards, unsafe conditions and accidents brought to its attention and to promptly mitigate all hazards and unsafe conditions within the FBO Tenant Property.
- ii. **Operator Workplace.** The Operator agrees that it alone bears the responsibility for providing a safe and healthy workplace, and that nothing in this Agreement suggests that the City has undertaken or assumed any part of that responsibility. The Operator will provide its employees with safety and health orientation and training to perform their jobs safely, including instruction in proper work methods, use of protective equipment, and safe maintenance, handling and use of materials and equipment. The Operator will not ask or allow any employee to work or operate any equipment until the employee has received all relevant safety and health training. The Operator will furnish all safety and personal protective equipment (PPE) required by the hazard assessment conducted by the Operator prior to beginning work under this Agreement.
- iii. **Injury or Damage.** In the event of any injury to any person or loss or damage to any property on the FBO, Operator shall promptly notify the City and as reasonably soon as available, furnish copies of relevant reports related to such injury, loss or damage.

**11. MAINTENANCE OF FACILITIES**

- a. **Cleaning of Facilities.** In accordance with its Final Budget, Operator shall maintain and keep the FBO (excluding CLT Tenant Property) clean at all times. If the facilities are not so properly maintained (normal wear and tear excepted) and kept clean, in the reasonable opinion of the City, Operator will be so advised and shall take immediate corrective action.
- b. **Garbage and Trash Disposal.** In accordance with its Final Budget, Operator shall remove from the FBO (excluding CLT Tenant Property) all garbage, trash and refuse of any nature whatsoever which might accumulate and arise from the Services. Accordingly, such garbage, trash and refuse shall be stored and disposed of only in the manner approved by the City.
- c. **Maintenance of Utilities.** City shall at all times maintain in good working order all the components of the electrical distribution, air conditioning, ventilating, fire protection, security system, hot and cold water, and industrial and sanitary sewage systems for FBO (except where otherwise agreed in a separate lease for CLT Tenant Property).
- d. **Maintenance and Repair.** The Operator shall be responsible for all general routine maintenance of the FBO facilities, including but not limited to the following tasks and services:
  - i. Performing scheduled, documented maintenance on all heating and air conditioning systems, including air filter servicing and cleaning of A/C condensing units and air handling equipment.
  - ii. Replacing lamps, light bulbs, fluorescent tubes, and ballasts.
  - iii. Conducting general plumbing repairs for clogged toilets, urinals, washbasins, and sink drains.

The Operator shall also be responsible for repairing, replacing, maintaining, and keeping in good condition the interior of the FBO, including but not limited to

carpet, flooring, painting, doors, windows, fixtures, furnishings, and appurtenances. Any broken glass shall be replaced with materials of equal or better quality and class than the original to maintain the premises in good order and condition, subject to ordinary wear and tear. Any repairs required solely due to the intentional or wanton acts, gross negligence, or willful misconduct of the Operator or its employees shall be at the Operator's expense.

The City shall at all times maintain and repair and keep in good condition the structure of the Executive Terminals and FBO Tenant Property (including the windows, roof and exterior walls), HVAC, plumbing infrastructure, ramp, parking lots, sidewalks and landscaping. At any time during the Term, the City shall have the right to shift any of the City's maintenance and repair obligations to the Operator. Any change in responsibility would occur after consultation with the Operator and the Final Budget would be amended to reflect associated costs. Maintenance and Repair provided by the Operator shall be in compliance with any standards or requirements established by the City.

## **12. INDEMNIFICATION AND WAIVER OF CONSEQUENTIAL DAMAGES**

- a. **Indemnification.** Operator shall indemnify, defend and hold harmless the City and the City's officers, agents and employees from and against any and all claims, losses, damages, obligations, liabilities and expenses, including but not limited to attorneys' fees, whether alleged or actual, arising out of or resulting from Operator's performance or omission under this Agreement, except to the extent that the claims, losses, damages, obligations, liabilities and expenses are caused by the negligence or willful misconduct of the City, or the City's officers, agents and employees. Such liabilities shall include those arising from a violation of any federal, state or local law, regulation or ordinance by the Operator or any of its subcontractors. Operator shall purchase insurance, as described in the Agreement, which shall include coverage for

this contractual liability. In any case in which Operator provides a defense to the City pursuant to this indemnity, the defense will be provided by attorneys reasonably acceptable to the City. This provision shall survive the natural expiration or early termination of the Agreement.

- b. **Waiver of Consequential Damages.** The City, nor any of its officers, agents, or employees shall be liable to the Operator for any loss of business or any indirect, incidental, special, or consequential damages or lost profits to or of the City arising out of or relating to this Agreement or the Operator’s performance or non-performance.

**13. INSURANCE AND BONDS**

- a. **Insurance.** Operator shall maintain in force with a financially responsible insurance company authorized to do business in the State of North Carolina the following minimum insurance:

Comprehensive General Liability	\$50,000,000
Personal Injury	\$25,000,000
Each Occurrence	\$50,000,000
Aircraft Legal Liability	<b>N/A</b>
Contractual Liability	\$50,000,000
Product & Completed Operations	\$50,000,000
Premises Legal Liability	\$50,000,000
Medical Expense Limit	\$3,000
Host Liquor Liability	\$50,000,000
Hangars Keepers Liability	\$20,000,000
Comprehensive Auto Liability	\$1,000,000
Work Comp	\$1,000,000/\$1,000,000/\$1,000,000
Pollution	\$1,000,000

- b. All insurance required hereunder shall include City – City of Charlotte, Aviation

Department, 5601 Wilkinson Blvd. Charlotte, NC 28208, as additional insured. The general liability and pollution insurance policy shall include contractual liability coverage for the indemnification obligations under this Agreement, products hazard coverage, and broad form property coverage. A certificate or certificates evidencing such insurance coverage shall be filed with City prior to the Effective Date and each subsequent Contract Year. All certificate(s) shall provide that such insurance coverage will not be canceled, reduced or the coverage materially changed without at least thirty (30) days prior written notice to the City. Operator shall, within fifteen (15) days after the City's receipt of written notice of cancellation, reduction or adverse material change or coverage of any required insurance, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies.

- c. **Employee Honesty Fidelity Bond.** Operator shall maintain a fidelity and employee dishonesty type of bond. Each Operator employee shall be bonded to cover \$5,000. Such bond shall include City – City of Charlotte, Aviation Department, 5601 Wilkinson Blvd. Charlotte, NC 28208, as a named insured. Unless the City agrees otherwise, certificate(s) evidencing such coverage shall be filed with the City within thirty (30) days after each employee is hired. Such certificates shall provide that coverage will not be canceled, reduced or materially changed without at least thirty (30) days prior written notice to the City. At least thirty (30) days prior to the expiration of any such coverage, a certificate showing that such coverage has been renewed or extended shall be filed with the City. If such coverage is canceled, reduced or materially changed, Operator shall, within fifteen (15) days after City's receipt of written notice of such cancellation, reduction or adverse material change or coverage, file with the City a certificate showing that the required coverage has been reinstated or provided through

another company or companies.

- d. **Operator's Performance and Payment Bond.** Prior to the Effective Date and no less than thirty (30) days prior to the start of each Contract Year, Operator shall provide to the City a Performance and Payment Bond from a surety company licensed in the State of North Carolina and satisfactory to the City in its reasonable discretion. The bond shall be on a form approved by the City and in an amount equal to one hundred percent (100%) of the Allowable Operating Expenses minus cost of goods sold (e.g., fuel, de-ice fluid, catering, credit card fees, etc.) in the current Contract Year's Final Budget.

#### **14. ASSIGNMENT**

Excluding the right to sublicense the FBO Tenant Property under the terms of this Agreement, Operator shall not assign, transfer, pledge or otherwise encumber this Agreement or any of the rights, privileges, and obligations of Operator hereunder without the specific written, prior approval of City, which approval may be granted or denied at the sole discretion of the City.

#### **15. TERMINATION**

- a. **Termination Without Cause.** The City may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the Operator.
- b. **Termination Conversion.** If the Agreement is terminated by the City for cause but it is later conclusively determined that the Operator has not in fact defaulted, the termination shall be deemed to have been effected for the convenience of the City and the Operator shall be paid through the date of the termination.
- c. **Events of Default for Either Party.** By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:
  - i. The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise

stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party;

- ii. The other party attempts to assign, terminate or cancel this Agreement contrary to the terms of this Agreement; or
- iii. The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.
- iv. Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

d. **Additional Grounds For Default Termination By The City.** By giving written notice to the Operator, the City may also terminate the Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

- i. The Operator makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with the solicitation, or any covenant, agreement, obligation, or term in this Agreement;
- ii. The Operator takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the bonds, insurance policies, and endorsements or



- failure to provide the proof of insurance as required by this Agreement; or
- iii. The Operator creates an environment that negatively impacts the safety and security of the Airport.
  - e. **No Effect On Taxes, Fees, Charges, Or Reports.** Any termination of the Agreement shall not relieve the Operator of the obligation to pay any fees, taxes or other charges then due for work obtained for this Agreement, to remit all outstanding Operating Revenues to the City, and to file any daily, monthly, quarterly or annual reports covering the Services through termination. Such termination shall not relieve the Operator from any claim for damages previously accrued or then accruing against the Operator.
  - f. **Obligations Upon Expiration Or Termination.** In the event this Agreement is terminated by the City for any reason prior to the end of the term, the Operator shall upon notice of termination work with the City to determine the timeline for the Operator to discontinue all services in connection with this Agreement, which, in the sole discretion of the City, may be immediately upon receipt of the termination notice (assuming all required notice and/or cure periods have been provided). Operator shall promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Operator shall provide a final Annual Accounting including all information required through the date of termination, any other reports or information required under this Agreement.
  - g. **No Suspension.** In the event that the City disputes in good faith an allegation of default by the Operator, notwithstanding anything to the contrary in this Agreement, the Operator agrees that it will not terminate this Agreement or suspend or limit the delivery of the Services or repossess, disable or render unusable any equipment, technology or software supplied by the Operator unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.
  - h. **Authority To Terminate.** The Aviation Director or his or her designee is authorized to terminate this Agreement on behalf of the City.

- i. **Transition Services Upon Termination.** Upon termination or expiration of this Agreement, the Operator shall cooperate with the City to assist with the orderly transfer of the Services functions and operations provided by the Operator hereunder to another provider or to the City as determined by the City in its sole discretion

## **16. DAMAGE OR DESTRUCTION TO FACILITIES**

If the Executive Terminals or the FBO Tenant Property is destroyed or so damaged as to be rendered unfit or unusable for the use and purpose for which this Agreement is granted, without fault on the part of Operator or its employees or agents, either party shall have the option without further liability to the other party, upon five (5) days' notice in writing, to terminate the remainder of this Agreement.

## **17. FEDERAL, STATE AND LOCAL REQUIREMENTS**

- a. **Equal Employment Opportunity.** Operator assures that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities of Operator at the airport pursuant to applicable law. Operator assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by applicable law.
- b. **City Non-Discrimination.** Operator agrees to comply with the Non-Discrimination Policy set forth in Chapter 2, Article V of the Charlotte City Code, which is available for review at <http://library.municode.com/index.aspx?clientId=19970> and incorporated herein by reference. Operator consents to be bound by the award of any arbitration conducted thereunder.
- c. **E-Verify.** Unless otherwise exempted, Operator shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Operator utilizes a subcontractor, Operator shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.
- d. **NC Prohibitions on Contracts with Companies that Invest in Iran or Boycott Israel.**

Operator certifies that (i) it is not identified on Treasurer's IDA List or Treasurer's IB List; and (ii) it will not take any action causing to appear on the Treasurer's IDA List or the Treasurer's IB List during the Term. In signing this Agreement, Operator further agrees, as an independent obligation, separate and apart from this Agreement, to reimburse the City for any and all damages, costs and attorneys' fees incurred by the City in connection with any claim that this Agreement or any part thereof is void due to Operator appearing on The Treasurer's IDA List or the Treasurer's IB List at any time before or during the Term.

e. **Federal Civil Rights Requirements.**

i. **General Civil Rights.** In all its activities within the scope of its airport program, the Operator agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identify), age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964. The above provision binds the Operator from the solicitation period through the completion of the contract. The above provision also obligates the Operator for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (1) the period during which the property is used by the airport Sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (2) the period during which the airport Sponsor or any transferee retains ownership or possession of the property.

- ii. **Civil Rights – Title VI Assurances.** During the performance of this Agreement, the Operator, for itself, its assignees, and successors in interest (hereinafter referred to as the “Operator”) agrees as follows:
- i. **Compliance with Regulations:** The Operator (hereinafter includes subcontractors and consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract. The current version of the Title VI List of Pertinent Nondiscrimination Statutes and Authorities is included below.
  - ii. **Non-discrimination:** The Operator, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and lease of equipment. The Operator will not participate directly or indirectly in the discrimination prohibited by the Title VI List of Pertinent Nondiscrimination Acts and the Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
  - iii. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Operator for work to be performed under a subcontract, including procurements of materials, or lease of equipment, each potential subcontractor or supplier will be notified by the Operator of the Operator’s obligations under this contract and the Title VI List of Pertinent Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
  - iv. **Information and Reports:** The Operator will provide all information and reports required by the Title VI List of Pertinent Nondiscrimination Acts and Authorities,

any federal regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FAA to be pertinent to ascertain compliance with such Title VI List of Pertinent Nondiscrimination Acts and Authorities and instructions. Where any information required of an Operator is in the exclusive possession of another who fails or refuses to furnish the information, the Operator will so certify to the City or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

- v. **Sanctions for Noncompliance:** In the event of an Operator's noncompliance with the non-discrimination provisions of this contract, the City will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to: (i) Withholding payments to the Operator under the contract until the Operator complies; and/or (ii) Cancelling, terminating, or suspending a contract, in whole or in part.
- vi. **Incorporation of Provisions:** The Operator will include the provisions of every paragraphs and subparagraph in Section 17(c) in every subcontract, including procurements of materials and lease of equipment, unless exempt by the Title VI List of Pertinent Nondiscrimination Acts or Authorities, any federal regulations and directives issued pursuant thereto. The Operator will take action with respect to any subcontract or procurement as the City or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Operator becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Operator may request the City to enter into any litigation to protect the interests of the City. In addition, the Operator may request the United States to enter into the litigation to protect the interests of the United States.

- iii. **Title VI List Of Pertinent Nondiscrimination Authorities.** During the performance of this contract, the Opreator, for itself, its assignees, and successors in interest (hereinafter referred to as the "Operator") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:
- i. **Title VI of the Civil Rights Act of 1964** (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
  - ii. **49 CFR part 21** (Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
  - iii. **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
  - iv. **Section 504 of the Rehabilitation Act of 1973**, (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
  - v. **The Age Discrimination Act of 1975, as amended**, (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
  - vi. **Airport and Airway Improvement Act of 1982**, (49 USC § 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
  - vii. **The Civil Rights Restoration Act of 1987** (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and

- contractors, whether such programs or activities are Federally funded or not);
- viii. **Titles II and III of the Americans with Disabilities Act of 1990** (42 USC §12101, et seq.) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodations, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
  - ix. **The Federal Aviation Administration’s Non-discrimination statute** (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
  - x. **Executive Order 12898**, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
  - xi. **Executive Order 13166**, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. at 74087 (2005)];
  - xii. **Title IX of the Education Amendments of 1972, as amended**, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. §1681 et seq).
- f. **Federal Grants and Public Use.** The parties acknowledge that the Airport will be operated as a public airport subject to the provisions of the Federal Aviation Act of 1958 and grant agreements between City and the federal government containing assurances guaranteeing the public use of the Airport so that this

Agreement shall be not construed to grant or authorize the granting of an exclusive right.

- g. **Modifications to Comply with Federal Laws, Regulations, or Agreements.** Should the United States of America or any instrumentality thereof having City to do so require that any provision of this Agreement that is in violation of any federal law or regulation or any provision of an existing grant agreement between City and the United States of America or any instrumentality thereof, be changed or deleted, or should any such change or deletion be required in order for the Airport either to continue as a part of the national airport plan or to retain its eligibility to participate in federal financial assistance programs, City may give Operator notice that it elects that any such change or deletion be made. Operator shall then elect either to consent to any such change or deletion or to cancel the remaining term of this Agreement. Such election shall be made in writing and delivered to the City within thirty (30) days of the date the City gave notice to Operator of its election that any such change or deletion be made.
- h. **Subordination to Federal Statute.** It is understood and agreed between the parties hereto that this Agreement shall be subject and subordinate to the provisions of any existing or future agreement between the City and the United States of America relative to the ownership, operation or maintenance of the Airport, the execution of which has been or may be required by the provisions of the Federal Airport Act of 1946, as amended, or any future act affecting the operation or maintenance of the Airport; provided, however, that City use its best efforts to cause any such agreement to include provisions protecting and preserving the rights of Operator in and to the FBO and improvements thereof.
- i. **Charlotte Business INClusion POLICY.** The City has adopted a CBI Policy, which is posted on the City's website at <https://charlottenc.gov/GS/procurement/cbi/Pages/default.aspx>. The parties agree



that:

- i. That Charlotte Business Inclusion Program Policy ("CBI Policy") and its Administrative Procedures Manual ("CBI Manual") are posted on the City's website and available in hard copy form upon request. Both the CBI Policy and CBI Manual comprise the CBI Program.
- ii. The terms of the CBI Program, as revised from time-to-time, are incorporated into this Agreement by reference; and
- iii. A violation of the CBI Program shall constitute a material breach of this Agreement and shall entitle the City to exercise any of the remedies set forth in the CBI Program, including but not limited to liquidated damages.
- iv. The City will incur damages if the Company violates the CBI Program, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to incur as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Company agrees to pay the liquidated damages assessed by the City at the rates set forth in the CBI Program for each specified violation. The Company further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation.
- v. Without limiting any of the other remedies the City has under the CBI Program, the City shall be entitled to withhold periodic payments and final payment due to the Company under this Agreement until the City has received in a form satisfactory to the City all claim releases, payment affidavits and other documentation required by the CBI Program. In the event payments are withheld under this provision, the Company waives any right to interest that might otherwise be warranted on such withheld amount under North Carolina

General Statutes Section 143-134.1.

- vi. The remedies set forth in the CBI Program shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.
- vii. The Company agrees to participate in any dispute resolution process specified by the City from time-to-time for the resolution of disputes arising from the CBI Program.
- viii. Nothing in this Section shall be construed to relieve Company from any obligation it may have under N.C. Gen. Stat. §143-134.1 regarding the payment of subcontractors.

j. **Charlotte Business Inclusion MWSBE Utilization and reporting**

- i. SUBCONTRACTOR UTILIZATION. Company has committed to subcontract for supplies and/or services from City Certified Small Business Enterprises (SBEs), and/or City Registered Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs) for the duration of the Contract, as follows:

Total MBE Utilization	%
Total WBE Utilization	%
Total SBE Utilization	%
<b>Total MWSBE Utilization</b>	%

Company shall not terminate, replace or reduce the work of an MWSBE without providing written notice to the city as outlined in the CBI Policy. Failure of Company to fulfill these utilization requirements shall constitute a material

breach of this Contract, and shall entitle the City to exercise any of the remedies set forth in the CBI Policy, including but not limited to liquidated damages.

- ii. LETTERS OF INTENT. Company acknowledges that it will be required to execute one or more letters of intent on or prior to the Effective Date. Each letter of intent will list the subcontractor (MWSBE) vendor name and the amount that Company has committed to spend with the subcontractor. The letter(s) of intent will be submitted in such format as the City shall determine. Company consents to submit its letter(s) of intent via the City's selected electronic compliance management system, at the City's option. The letter(s) of intent shall be deemed to be incorporated into this Contract when submitted by Company and accepted by the City. Any changes to letters of intent or any new letters of intent will also be deemed incorporated into this Contract when submitted by Company and accepted by the City.
- iii. PAYMENTS TO MWSBEs. Company shall abide by N.C. Gen. Stat. §143-134.1 (b) and within seven (7) days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Furthermore, if Company has made a Quick Pay Commitment under the CBI Program, Company shall comply with any provisions of the Quick Pay Commitment that are more stringent than N.C. Gen. Stat. §143-134.1 (b), but shall also remain bound by N.C. Gen. Stat. §143-134.1(b).
- iv. PAYMENT REPORTING. As a condition to receiving payments under this contract, Company agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the city, detailing the amounts paid by Company to all subcontractors and suppliers.
- k. **Familiarity and Compliance with Laws and Ordinances.** The Operator agrees to make itself aware of and comply with all local, state and federal ordinances,

statutes, laws, rules and regulations and the City's policies, procedures and processes applicable to the Services or the Airport. The Operator further agrees that it will at all times during this Agreement be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the services.

## 18. GENERAL PROVISIONS

- a. **Non-Exclusivity.** The Operator acknowledges that it may be one of several providers of the Services to the City and the City is not obligated to contract with the Operator for any particular project, work or services.
- b. **Time is of the Essence.** Time is of the essence in having the Operator perform all Services and deliver all items within the time frames provided by this Agreement and **Exhibit A**, including all completion dates, response times and resolution time. Except as specifically stated in the Agreement, there shall be no extensions of the stated time frames.
- c. **Entire Contract.** This Agreement including all Exhibits constitutes the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings, or agreements between the Parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations, bid and proposals, written or oral.
- d. **Amendment.** No amendment or change to the Agreement shall be valid unless in writing and signed by both Parties.
- e. **Permits and Licenses.** Operator shall obtain, pay for, and maintain on a current basis, all permits and licenses as required for the provision of the Services, including, without limitation, any permits and licenses required for

the sale of motor fuels.

- f. **Governing Law and Jurisdiction.** North Carolina law shall govern the interpretation and enforcement of this Agreement, and any other matters relating to this Agreement (all without regard to North Carolina conflicts of law principles). All legal actions or other proceedings relating to this Agreement shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By execution of this Agreement, the Parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.
- g. **Survival of Provisions.** Those Sections of the Agreement and the Exhibits which explicitly state or by their nature would reasonably be expected to continue after the termination or natural expiration of the Agreement shall survive the termination or natural expiration of the Agreement.
- h. **Severability.** The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of this Agreement so long as the material purposes of this Agreement can be determined and effectuated. If any provision of this Agreement is held to be unenforceable, then both Parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
- i. **No Manufacturer or Dealer Advertisement.** No manufacture or dealer shall advertise on goods delivered to the Airport without prior approval by the City.
- j. **Waiver.** No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Agreement

shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights.

- k. **Change in Control.** In the event of a change in "Control" of the Operator (as defined below), the City shall have the option of terminating this Agreement by written notice to the Operator. The Operator shall notify the City within ten days of the occurrence of a change in Control.
- l. **Force Majeure.** Neither party hereto shall be liable to the other for any failure, delay or interpretation in the performance of any of the terms, covenants, or conditions of this Agreement due to causes beyond the control of that party including, but not limited to, court order, shortages of materials, acts of God, act of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellion, sabotage or other circumstances for which such party is not responsible, which the party cannot reasonably circumvent or which are not in its power to control, for as long as such cause continues. This provision does not include strikes, slow-downs, walkouts, lockouts and individual disputes.
- m. **No Limitations on Disclosure.** The Operator agrees that the City shall be able to disclose and distribute to any persons or entities, without restrictions, all Services provided under this Agreement or the solicitation. The Operator specifically agrees that the City can and will provide information related to the Services to the Operator's competitors in any future procurement process.
- n. **No Bribery.** The Operator certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the forgoing has bribed or attempted to bribe an officer or employee of the City in connection with this Agreement.

- o. **Taxes.** The Operator shall pay all applicable federal, state and local taxes which may be chargeable against or for the provision of the Services.
- p. **Ownership of Work Product.** The City shall own title to and all intellectual property rights in and to all documents, reports, specifications, designs, developments, computations, and other materials prepared, obtained or delivered under the terms of this Agreement (collectively the "Deliverables"). The City may use, transfer, copy and distribute the Deliverables without restriction or limitation. The City accepts responsibility for any changes made by the City to these Deliverables after final submittal by the Operator. The City acknowledges and agrees that the Operator may retain one copy of each Deliverable and use the Deliverable solely for its internal general reference. The Operator shall cooperate with and provide reasonable assistance to the City as necessary to obtain or enforce any patents, copyrights or other proprietary rights in the Deliverables and to execute all Deliverables necessary to give the City full legal ownership of such Deliverables. The Operator shall also take all necessary actions to ensure that all employees and approved subcontractors engaged by the Operator in connection with the Agreement are bound by the terms of this provision. The Operator shall, as required for the performance under this Agreement and otherwise upon the request of the City or upon expiration or termination of this Agreement, deliver to the City all Deliverables. Operator acknowledges that all information included in or generated from the provision of the Services under this Agreement is public record except for information that falls under one or more of the statutory exceptions set forth in Chapter 132 and 66-152 et seq. of the North Carolina General Statutes. Operator may only designate information confidential that it, in good faith, considers a trade secret or confidential under North Carolina public records and trade secret law. However, City reserves the right to review and make any final determination on if

any material submitted is in fact protected by an exception to North Carolina's public record law. Operator agrees that the City may reveal any trade secrets or confidential information to City staff, consultants or third parties assisting with this Agreement. Where information is marked Trade Secret or confidential, Operator agrees as a separate indemnity, to indemnify, defend and hold harmless the City and each of its officers, employees and agents from all costs, damages and expenses incurred in connection with the City choosing to withhold any material based on Operator's designation of said material as a trade secret or confidential.

- q. **Approvals.** All approvals or consents required under this Agreement must be in writing, but such may be made through e-mail unless giving formal legal notice related to compliance by either party to the terms of this Agreement.
- r. **Confidentiality Requirements.** The Operator acknowledges that it is bound by all terms and conditions contained in the Confidentiality Requirements with respect to any confidential information which it obtains access to in connection with this Agreement. A signed copy of the Confidentiality Requirements is attached hereto as part of **Exhibit C**.
- s. **E-Builder.** Operator may be required to use the City's web-based project control software in the provision of the Services, as may be changed from time to time. The City's current control software is e-Builder and information on e-Builder can be found at [www.e-builder.net](http://www.e-builder.net).
- t. **Public Statements.** The Operator agrees to refrain from the following, absent the City's prior written approval: (1) making any statement to the media or public regarding the subject matter of this Agreement or the City's position on any issue relating to this Agreement or the Services provided thereunder; or (2) making any statement to the media or public on any issue which, in the City's judgment, is likely to cast doubt on the competence or integrity of the City or



the Operator Failure to comply with this provision by the Operator shall constitute a material breach and, without limiting any other remedies the City may have, shall entitle the City to terminate this Agreement immediately for default.

- u. **No Third Party Benefit.** The provisions of this Agreement are for the sole benefit of the Parties hereto. Except as expressly provided herein, this Agreement neither confers any rights, benefits, or claims upon any person or entity not a party hereto nor precludes any actions against, or rights of recovery from, any persons or entities not Parties hereto.
- v. **Construction of Terms.** Both parties have carefully considered the particular language used in this Agreement. The general rule of law that ambiguities are construed against the drafter will not apply.
- w. **Days.** Unless specifically stated otherwise, all references to days in this Agreement refer to calendar days rather than business days.
- x. **Conflict of Interest.** The Operator will not take any action that is or is likely to be perceived as conflict of interest under this Agreement. The Operator or its subcontractor has not made and will not make any gifts to City employees or officials in connection with this Agreement.