



VIA EMAIL

PUBLISHED: October 7, 2025

SUBJECT: Request for Proposals for Management, Operation, and Development of Fixed Based Operator (FBO): Notice of Addendum No. 2 Release

Dear Prospective Proposers:

Reference is made to the Request for Proposals for Management, Operation, and Development of Fixed Based Operator issued by the Montgomery Airport Authority ("MAA") dated June 2, 2025 (as amended from time to time, the "**RFP**" or the "**MGM FBO RFP**"). Capitalized terms used in this communication have the meanings given to them in the RFP.

This communication is a courtesy notice that MAA has issued an Addendum to the RFP ("**Addendum No. 2**"). This communication also provides a redline comparison of the RFP against the previously released version, attached in Appendix 1. Prospective Proposers should note:

- The redline comparison provided in Appendix 1 is for informational and reference purposes only.
- In accordance with Section 7.3.2 of the RFP, Appendix 1 does not modify the provisions of the RFP. Any modifications to the RFP that are formally incorporated in the Addendum published on the Procurement Website will take precedence over the reference redline provided herein.
- Any provisions of the RFP not specifically modified by Addendum remain unchanged.

We thank you for your continued interest in the MGM FBO RFP and encourage you to reach out with any other questions as they arise.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lloyd Jenkins', is written over a horizontal line.

Lloyd Jenkins
Interim Executive Director, MAA
Procurement Contact

Enclosures: Addendum No. 2 Redline Comparison



Appendix 1: Addendum No. 2 Redline Comparison

[Remainder of page intentionally left blank. Addendum No. 2 Redline Comparison follows on the next page.]

Request for Proposals for
Management, Operation, and Development of
Fixed Based Operator (FBO) at



ISSUED BY:	Montgomery Airport Authority
INITIAL ISSUANCE DATE:	June 2, 2025
ADDENDUM NO. 1 ISSUANCE DATE:	August 26, 2025
<u>ADDENDUM NO. 2 ISSUANCE DATE:</u>	<u>October 7, 2025</u>
PROCUREMENT CONTACT:	Loyd Jenkins, Interim Executive Director Address: Montgomery Airport Authority Attn: Loyd Jenkins Interim Executive Director 4445 Selma Highway Montgomery, AL 36108 E-mail: FBORFP@flymgm.com
SITE VISIT & PRE-PROPOSAL CONFERENCE:	July 11, 2025, 9AM – 12PM CST
FINAL SITE VISIT:	August 13, 2025, 10AM – 12PM CST ~~Located in the Rotunda Conference Room~~ ~~4445 Selma Highway, Montgomery, AL 36108~~
RFP COMMENT PERIODS:	INITIAL: June 2, 2025 to July 1, 2025 at 3PM CST FINAL: August 26, 2025 to September 12, 2025 at 3PM CST
PROPOSAL DEADLINE:	No later than November 7, 2025



Release of ~~August 26~~October 7, 2025



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PART I: PURPOSE OF REQUEST AND GENERAL INFORMATION

1. Introduction

1.1. Procurement Approach and Overview of Opportunity

The Montgomery Airport Authority (“MAA” or the “Authority”) through this Request for Proposals (“RFP” or “MGM FBO RFP”) invites written proposals from qualified firms (the “Proposers”) who seek to provide management, operation, and development of a fixed based operator (“FBO”) at Montgomery Regional Airport (“MGM” or the “Airport”). The Authority’s intent is that the FBO services will be provided at facilities owned and provided by the Authority on the West Ramp of the Airport under a fee-for-service management contract (the “FBO Services Agreement” or the “Agreement”) with a public-private partnership (P3) option. The P3 option may be exercised by the Authority to support any capacity-enhancing or revenue-generating improvements under innovative investment, financing, and compensation structures in accordance with Applicable Law including, Al. Code. § 4-3-47 (*Participation by Authorities in Certain Business Entities Relating to Airport Activities*), the “AL Airport P3 Law.”

As more fully described herein, MAA requests that prospective respondents propose creative solutions, programs, and plans that improve management of the FBO and offer the greatest potential to increase Airport revenues. The Authority will review and evaluate responses to this RFP (the “Proposals”) taking into consideration the evaluation criteria provided herein. After this evaluation process, the Authority intends to select, in its sole discretion, no more than one (1) Proposer (the “Preferred Proposer”) who has demonstrated that it is qualified to undertake the FBO services, is capable of providing capital investment, has conducted a thorough market analysis for FBO services at the Airport, has a scalable business plan, and will provide a balanced management approach that achieves outstanding customer service and continued revenue growth. MAA intends to grant the Preferred Proposer the opportunity to undertake the services and work described in Section 4 of this RFP.

1.2. Airport Goals for the FBO

The Authority’s goals for FBO services at the Airport are summarized below. Proposers are encouraged to consider these goals when preparing their Proposals:

- Elevate the customer experience by providing outstanding customer service along with related industry-leading technologies;
- Identify opportunities to modernize the FBO Site to offer state-of-the-art facilities with world-class amenities and to increase capacity and enhance security;
- Increase Airport revenues through innovation and improved operational efficiency;
- Promote increased flight activity and volume of fuel sales;
- Introduce cost controls to FBO operations while maintaining and/or improving customer service, safety, and revenue growth; and

- Coordinate and collaborate with key stakeholders to ensure smooth, continuous services and operations.

1.3. Procurement Schedule

MAA anticipates carrying out the procurement process in accordance with the following indicative schedule (the “Procurement Schedule”). This Procurement Schedule is subject to modification at the discretion of MAA. Proposers will be notified of any change by an Addendum to this RFP or, following award to the Preferred Proposer, by written notice from the Authority.

Key Occurrence	Date/Time
Procurement Process	
Issuance of MGM FBO RFP Commencement of Initial RFP Comment Period	June 2, 2025
Initial RFP Comment Deadline	July 1, 2025 (no later 3PM CST)
Site Visit and Pre-Proposal Conference	July 11, 2025
Issuance of MAA Response to RFP Comments	August 1, 2025
Final Site Visit	August 13, 2025
Issuance of Addendum No. 1 to MGM FBO RFP (including: Form of FBO Services Agreement) Commencement of Final RFP Comment Period	August 26, 2025
Final RFP Comment Deadline	September 12, 2025 (no later than 3PM CST)
Issuance of ~~Final~~ <u>Addendum No. 2 to</u> MGM FBO RFP	October ~~3~~ <u>7</u> , 2025
Proposals Due (“Proposal Submission Deadline”)	November 7, 2025 (no later 11:59PM CST)
Evaluation and Selection Period (including potential interviews with Proposers)	Q4 2025
Anticipated Announcement of Notice of Intent to Award Exclusive Negotiation Period	Q4 2025 / Q1 2026
FBO Services Agreement Execution	Q1 2026

1.4. Definitions and Abbreviations; Rules of Interpretation

1.4.1. Defined Terms

Except as otherwise specified herein or as the context may otherwise require, the terms and abbreviations used herein have the respective meanings set out in Attachment 1A (*Definitions and Abbreviations*) to this RFP.

1.4.2. Interpretation of Certain References, Phrases, and Common Terms

The rules governing interpretation of this RFP are set out in Attachment 1B (*Rules of Interpretation*) to this RFP.

1.5. State and Federal Law Requirements

MAA is issuing this RFP and carrying out this procurement for the intended transaction in accordance with its Procurement Contract Guidelines and all Applicable Law, including as set out in Attachment 2 (*Federal Requirements*) to this RFP.

2. Background Information

2.1. Airport Overview

Montgomery Regional Airport is a joint-use (civil-military) airport, owned and operated by the Authority. The Airport is located in Montgomery County (population: 229,000) and is approximately seven (7) miles southwest of the city of Montgomery (population: 201,000), the capital of Alabama (the "State"). The Airport is located on Selma Highway off I-65.

MGM is categorized as a non-hub primary commercial service facility. As of FY24, the Airport recorded 194,627 passenger enplanements, an 8.5% increase from the 179,445 enplanements achieved in FY23. The Airport is also home to a diverse fleet of registered aircraft, with approximately 110 aircraft housed in hangars or stationed at the Airport. Additionally, the Airport supported approximately 32,000 general aviation aircraft operations during FY23. Airside facilities include airport beacon, airport lighted schedule, beacon lighted schedule, wind indicator, segmented circle, and control tower. Runway 3-21 and Runway 10-28 are both rated using the CBR test. The runways are equipped with various navigational aids, with Runway 10-28 providing access to 2 instrument approaches. The Airport also maintains UNICOM to provide pilots with up-to-date weather information.

MGM is currently served by American Airlines and Delta Air Lines. Current destinations include Washington DC (DCA), Charlotte, NC (CLT), Dallas Fort-Worth (DFW), and Atlanta (ATL). MGM has established an air carrier incentive policy to attract additional commercial air service. MGM also intends to develop an incentive policy to attract additional air cargo service.

2.2. Reference Information

Subject to Section 7.2, the Reference Information Documents included in Attachment 6 are offered to inform Proposers that are experienced in the general aviation industry as they estimate the market at the Airport.

2.3. Minimum Standards for FBO Services

The Authority maintains minimum standards for the conduct of commercial aeronautical activities at the Airport (the “Minimum Standards”), appended hereto as Attachment 3. The current Minimum Standards were adopted by the Authority in March 2024.

2.4. Leased Premises of Incumbent FBO

- a. Montgomery Aviation Corporation (the “Incumbent FBO”) is currently the sole FBO operating at the Airport. The Incumbent FBO operates under a lease agreement (the “Lease Agreement”) with the Authority that commenced in April 2022.
- b. The Incumbent FBO leases all of the land, buildings, structures, facilities, fixtures, and improvements within two areas of the Airport: the “East Ramp,” as described in the tract description in Attachment 4A and the “West Ramp,” as described in the tract description in Attachment 4B. The East Ramp and the West Ramp are collectively known as the “Leased Premises.”
- c. The Lease Agreement expires on June 30, 2025 at 11:59 p.m. (the “East Ramp Expiration Date”) with respect to the East Ramp and on June 30, 2027 at 11:59 p.m. (the “West Ramp Expiration Date”) with respect to the West Ramp. The Authority expects that the Incumbent FBO will remain operational on the East Ramp and West Ramp until the respective expiration dates under the Lease Agreement.

2.5. Information Regarding Fuel and Existing Fuel Facilities

2.5.1. Fuel Volumes

The following table illustrates MGM’s historical fuel information.

MGM Fuel Flowage in Gallons						
Fuel Type	Calendar Year (CY) 2024	Monthly Average (CY 2024)	Calendar Year (CY) 2023	Monthly Average (CY 2023)	Calendar Year (CY) 2022	Monthly Average (CY 2022)
JET						
Retail	107,893	8,991	123,676	10,306	151,036	12,586
Military	312,448	26,037	174,988	14,582	285,064	23,755
Contract	430,643	35,886	431,705	35,975	368,758	30,730
Airlines	1,809,553	150,796	1,574,990	131,249	1,578,965	131,580
Total:	2,660,537	221,711	2,305,359	192,113	2,383,823	198,652
AVGAS						

100LL	172,289	14,357	87,951	7,329	88,038	7,337
Total:	2,832,826	236,068	2,393,310	199,443	2,471,861	205,988

2.5.2. Existing Fuel Tanks

The portable, above-ground fuel facility located on the East Ramp is not a fixture and is expected to be removed by the Incumbent FBO prior to June 30, 2025. The Incumbent FBO also owns and operates an underground fuel facility on the West Ramp, and that facility is expected to be removed by the Incumbent FBO no later than June 30, 2027.

2.5.3. New Fuel Farm

The Authority has acquired its own fuel facility, with the goal that a new fuel farm will be operational beginning no later than June 30, 2026. The new fuel facility is located on the West Ramp in the area depicted in Attachment 4B ~~within the Existing FBO Layout~~ (as noted, the “Fuel Farm Site”). See Section 5 herein for further details regarding the new fuel facility.

2.6. Information Regarding Based Aircraft

The following table illustrates MGM’s current based aircraft information.

Airport Party	Aircraft Type and Storage Type	Total No. of Aircraft
Incumbent FBO (West Ramp)	Piston – Hangared (12) Piston – T-Hangar (3) Turboprop – Hangar (5) Jet – Hangar (1)	21
MAA (East Ramp)		16
Private Tenants (Various)	Piston – Hangared (10) Piston – Tie-Down (5) Turboprop – Hangared (2) Jet – Hangared (2)	19
Alabama Law Enforcement Agency	Piston – Hangared (1) Turboprop – Hangared (1) Helicopter – Hangared (4)	6
Military	Blackhawk Helicopter	6
Military	F-35	18
Total Based Aircraft:		86

3. Information Regarding Existing Lease Agreement

3.1. Services under Existing Lease Agreement

- a. The Incumbent FBO must provide all the services required by and in accordance with the Minimum Standards.
- b. Under the Lease Agreement, the Incumbent FBO must provide:

- i. Hangar storage for general aviation aircraft and tie down services on aprons as may be reasonably designated by the Authority within the Leased Premises;
 - ii. Adequate ramp service for general aviation aircraft users with qualified personnel available on the ramp 24 hours a day, seven (7) days a week, including equipment and personnel capable of removing disabled aircrafts from runways and taxiways; provided that, the term "adequate service" as applied to night time or non-regular hours allows provision of services with less than the full regular staff of personnel as may be commensurate with the average needs of general aviation at such times;
 - iii. Sale of aviation gasoline, fuel, oils, and lubricants of kinds customarily sold to general aviation aircraft users;
 - iv. Maintenance, repair, and servicing of general aviation aircraft, aircraft engines and parts normally provided by FBOs at the type and size of installation;
 - v. Maintenance of adequate inventory of the necessary aircraft parts and accessories to maintain, repair, and service general aviation aircraft normally provided by FBOs at the type and size of installation; and
 - vi. Aircraft crew lounge, telephone, and rest room facilities,
(collectively, the "Legacy Required Operations").
- c. In addition to the foregoing services, the Incumbent FBO may, at its option, provide other services and sell other products under the Lease Agreement, including the following:
- i. Sale of new and used aircraft;
 - ii. Aircraft rental business;
 - iii. Operation of FAA-approved flight school;
 - iv. Operation of nonscheduled and charter transportation of passengers;
 - v. Operation of air taxi and sight-seeing services;
 - vi. Operation of aerial survey, photography, mapping services, and crop dusting;
 - vii. Operation of aviation radio and communication facilities and repair and installation of the same;
 - viii. Flight operation, including demonstrations of aircraft for sale, and flight training (primary and advanced);
 - ix. Sale of non-alcoholic beverages, snacks, sandwiches, and other edible items whether directly or by the use of vending machines;
 - x. The fueling, lubrication, and other servicing of all transient aircraft, including but not limited to, military aircraft (both fixed and rotary wing), commercial airlines (scheduled or nonscheduled), and air cargo air carriers;

- xi. The right to load and unload passengers and cargo and to transport passengers to and from transient aircraft to and from the terminal and other areas of the Airport;
- xii. The right to repair ground service equipment, excluding automobiles;
- xiii. Towing of disabled aircraft;
- xiv. Provision of parking areas for automobiles, refuelers, and ground equipment for Incumbent FBO's employees, invitees, and licensees within the Leased Premises;
- xv. Financing and insuring aircraft;
- xvi. Loading and unloading aircraft in any lawful activity; and
- xvii. Such other services and sale and rental of such other items as agreed to by the Authority; provided that all automobile rentals from the Leased Premises are billed through the counter facilities located within the Airport,

(collectively, the "Legacy Optional Operations").

3.2. Facilities and Maintenance under Existing Lease Agreement

- a. The Incumbent FBO must provide all the facilities required by and in accordance with the Minimum Standards.
- b. The Lease Agreement contemplates the following maintenance obligations:
 - i. improvements that keep the Leased Premises in efficient operating condition;
 - ii. upkeep of the Leased Premises in good, sanitary, and neat order and condition;
 - iii. restoration of the Leased Premises to its original design, condition, and construction; and
 - iv. protection of the Leased Premises through routine maintenance and/or incidental repairs,

(collectively, the "Legacy Maintenance Obligations").

3.3. Subleases and Underlying Contracts Related to Current FBO Operations

To the extent still effective as of the East Ramp Expiration Date or the West Ramp Expiration Date (as applicable), the Authority expects that all interests in the existing subleases and other tenant agreements under the Lease Agreement with the Incumbent FBO will be transferred to the Authority upon expiration of the Lease Agreement. The Authority expects to conduct discussions with the then-current tenants of the Incumbent FBO within six (6) months of the applicable expiration dates. It is expected that rental rates will be brought to current, fair market value and that lease terms will be updated and standardized in all new leases. There are currently 24 hangar leases in place with the Incumbent FBO with approximately \$22,000 in monthly rental income.

PART II: SCOPE OF SERVICES AND WORK

4. Base and Optional Scopes of Work for FBO Services

4.1. Scope and Phasing of the Services and Work

4.1.1. Scope of the Required Services and Work

- a. The “Services and Work” required of the counterparty to the FBO Services Agreement, (the “Operator”), include:
 - i. the Transition Consulting Services, as further described in Section 4.2;
 - ii. the Management Services, as further described in Section 4.3; and
 - iii. the Capital Work, as further described in Section 4.4.
- b. Such Management Services, Transition Consulting Services, and Capital Work, related to administrative and operational management of Authority-owned fixed-base operator assets under the general supervision of the Authority, will at all times be in compliance with the Minimum Standards.
- c. The Services and Work exclude any work which is referenced as excluded or prohibited under the terms of the FBO Services Agreement, including the Minimum Standards, and any work that MAA is expressly obligated to perform, or elects to perform.
- d. The Services and Work, as more fully described in the FBO Services Agreement, along with the provision of at least the Legacy Required Operations and Legacy Maintenance Obligations are the “Base Scope” required of the Operator.

4.1.2. Phasing of the Required Services and Work

- a. The initial term of the FBO Services Agreement (the “Term”) will be divided into two periods: the Pre-Operations Period and the Operations Period as more fully described below. The Operations Period will be no less than five (5) years, with the first operating year commencing on the Commencement Date (each such year during the Operations Period, an “Operating Year”).
- b. The Term of the FBO Services Agreement will commence upon execution of the Agreement (the “Effective Date”) and in any case, will commence no later than March 31, 2026 to allow time for assessment and mobilization of the FBO by the Authority in consultation with the Operator. The Authority expects that the period beginning on the Effective Date and ending no later than July 1, 2027 will be the “Pre-Operations Period.”
- c. Operations on the West Ramp and the Fuel Farm Site will commence no later than July 1, 2027 (the Commencement Date”) when the Lease Agreement over the West Ramp expires. The period beginning no later than July 1, 2027, and ending on the earlier of expiration or termination of the FBO Services Agreement will be the “Operations Period.”

- d. The FBO Services Agreement will automatically renew for one (1) five-year term on the 5th anniversary of the Commencement Date unless the Authority declines to renew in writing before the end of the Term.
- e. It is anticipated that direction to proceed with the Services and Work within each period will be authorized through issuance of notices to proceed (each an “NTP”). The Operator will be prohibited from undertaking any work prior to it having satisfied the relevant conditions precedent, including as reflected by issuance of the relevant NTP.

4.1.3. Optional Scope for Additional Services and Capital Investment

- a. Proposers may propose additional services to further manage, operate, and develop the FBO (the “Additional Services”) and capital investments in the FBO Site (the “Optional Capital Investments”) that are not included in the Base Scope. Such Additional Services and Optional Capital Investment comprise the “Optional Scope.”
- b. Proposers will submit proposed additional commercial terms to the FBO Services Agreement to support any Additional Services and Optional Capital Investment, including revenue share arrangements and the nature of the grant of rights/term needed to support the proposed level of investment (such terms, the “Option Terms”). In the MAA’s sole discretion, it will enter into good faith negotiations with the Preferred Proposer to finalize mutually acceptable Option Terms related to compensation, services, and other provisions to be incorporated into the FBO Services Agreement.

4.2. Transition Consulting Services

- a. During the Pre-Operations Period, the Operator will provide services related to assessment and mobilization of FBO operations at the Airport, with particular emphasis on the transition from operations of the Incumbent FBO under the Lease Agreement to Authority ownership and operation under the FBO Services Agreement. Such services (the “Transition Consulting Services”) will be designed and implemented to achieve uninterrupted service to the public during mobilization of the FBO at the Airport. The Transition Consulting Services may include, but shall not be limited to:
 - i. Assessment of existing facilities on the FBO Site, including a Phase 1 environmental review of the FBO Site;
 - ii. Consultation with the Authority on operating and capital budgets;
 - iii. Inventory of Authority-owned equipment and necessary acquisitions prior to the Operations Period;
 - iv. Evaluation of existing subleases on the West Ramp and East Ramp;
 - v. Coordination with existing tenants of the Incumbent FBO for potential transition of tenancy to the Authority; and
 - vi. Preparation of a capital investment and fixed improvements plan.
- b. To receive an NTP to commence the Operations Period, the Operator must satisfactorily complete certain conditions precedent to commencement of the

Operations Period (the “Pre-Operations Milestones”) in accordance with the Agreement. The Pre-Operations Milestones will include, without limitation, the following:

- i. the Operator performs an initial inspection of the FBO Site;
- ii. the Operator completes all activities required for mobilization and transition of the FBO;
- iii. the Operator submits each deliverable required to be submitted in accordance with the Agreement;
- iv. the Operator completes all activities related to the training and mobilization of staff;
- v. the Operator obtains approval for and executes all agreements required for performance of the Services and Work;
- vi. the Operator obtains all permits and/or third-party consents applicable to commencement of the Services and the Work; and
- vii. the Operator has provided to the Authority any documents, security, or assurances as required by the FBO Services Agreement as a condition of commencement of the Operations Period.

4.3. Management Services

The “Management Services” will consist of all work, services, and activities to be performed, furnished, or undertaken by the Operator, for provision and management of the FBO services at the Airport on behalf of the Authority. Such services will include:

- a. delivery and dispensing of avgas, jet fuel, and aircraft lubricants;
- b. line services and support;
- c. aircraft ramp services, including towing, parking guidance, tie-down, and related services;
- d. aircraft removal and assistance to disabled aircraft;
- e. aircraft hangar storage and management of Authority hangar tenants;
- f. aircraft de-icing, including the storage and disposal of all captured de-icing fluid;
- g. operation and management of the Fuel Farm Site, including acquisition and maintenance of applicable certificates;
- h. routine maintenance of Authority-owned equipment, including fuel facilities;
- i. audit, inspection, and record retention duties;
- j. passenger and pilot facility management;
- k. SASO service support;

- l. flight planning and information services;
- m. financial management and related reporting obligations, including preparation of an annual operating budget and collection and remittance of applicable fees to Authority;
- n. emergency response duties;
- o. ongoing marketing and economic development efforts;
- p. provision of all personnel for all operations and management functions; and
- q. any other required services set forth in the Minimum Standards.

4.4. Capital Work

4.4.1. Overview of Capital Work

During the Operations Period, the Operator will complete required improvements to the FBO Site (the "Required Improvements"). At its option, the Operator will also have the ability to undertake additional capital work, to include new construction, renovation, and expansion projects as proposed in the Capital Investment and Fixed Improvements Plan submitted in accordance with this RFP (as approved by the Authority, the "Capital Improvement Projects"). The "Capital Work" includes the Required Improvements and any Capital Improvement Projects that are approved by the Authority as provided herein.

4.4.2. Required Improvements to the FBO Site and Proposed Capital Improvement Projects

- a. The Required Improvements will include all work to bring the FBO Site into compliance with the Minimum Standards and a state of good repair, including the following:
 - i. in consultation with the Authority, demolition or complete rehabilitation of the facilities in Section 5.2 that appear to have reached the end of their useful life;
 - ii. for remaining facilities:
 - A. restoration or replacement of roofs, as applicable;
 - B. necessary structural repairs;
 - C. replacement or refurbishment of mechanical systems;
 - D. replacement or refurbishment of doors and windows; and
 - iii. pavement repair.
- b. The Capital Improvement Projects, if any, should include fixed improvements to optimize the FBO to meet the Authority's goals in Section 1.2.

4.5. Fee and Costs Structure of the FBO Services Agreement

4.5.1. Payment for Transition Consulting Services

- a. Upon the Effective Date, the Operator will provide the Transition Consulting Services, and as compensation, MAA shall pay the Operator the "Consulting Price." The Consulting Price is the total price for the Transition Consulting Services.

- b. In accordance with Section 15.2, each Proposer must submit the amount of the Consulting Price as an hourly rate or flat fee “Consulting Fee.” If an hourly rate Consulting Fee is proposed for the Transition Consulting Services, then the Proposer should include labor rates for all position titles necessary for the Transition Consulting Services.

4.5.2. Payment for the Management Services and the Budgeted Operating Costs

- a. Upon the Commencement Date, the Operator will provide the Management Services for an annual fixed level of compensation plus an optional percentage of net income (the “Management Fee”). The Authority will pay the Management Fee and approve the operating budget with actual operating costs not to exceed the budgeted operating costs (the “Budgeted Operating Costs”) for each Operating Year, as proposed, and as more fully set forth in the FBO Services Agreement.
- b. In accordance with Section 15.2, each Proposer must submit the amount of the Management Fee as a flat annual fee (the “Base Annual Fee”) along with the Budgeted Operating Costs as set forth in the financial pro forma that must be submitted in accordance with Section 14.4.c; provided that Proposers may, if desired, include a percentage of overall net revenue incentive based on Proposer-specified, Authority approved financial metrics or performance objectives (“Incentive Fee”) payable in equal monthly installments as part of the Management Fee structure.
- c. The Operator shall bill the agreed upon annual Management Fee in equal monthly installments through a request for payment, accompanied by corresponding monthly financial statements and year-to-date financial statements showing actual year-to-date performance against budget.
- d. The Authority anticipates the Budgeted Operating Costs will include an initial capital outlay for required equipment. However, Proposers may propose to furnish their own equipment in exchange for a more favorable financial arrangement (e.g. a higher Management Fee).

4.5.3. Financial Arrangements Related to Capital Work

- a. The Authority’s preference is that the Required Improvements will be funded and financed entirely by the Operator. However, the Authority will consider Proposals which contain plans for partial or total investment by the Authority in the Required Improvements.
- b. The Authority’s preference is that all Capital Improvement Projects proposed by the Operator will be funded and financed entirely by the Operator. However, as an alternative to proposing Capital Improvement Projects funded by Operator as part of the Base Scope, Proposers may instead submit proposals for “joint Operator-Authority” or “Authority-only” financing of certain fixed improvements that would otherwise be a Capital Improvement Project as part of the Optional Scope related to Optional Capital Investment.

4.5.4. Financial Arrangements Related to Optional Scope and Option Terms

- a. If any Proposer includes an Optional Scope in its Proposal, such Proposer may propose a fee and cost structure for the Optional Scope that includes shared Authority-Operator financing and/or, *as applicable*, the following pricing elements:
 - i. pricing for any Additional Services as a fully burdened annual rate;
 - ii. amounts of any Optional Capital Investments by the Proposer;
 - iii. Revenue share on fuel pumped by Operator, expressed in \$0.XX per gallon retained by Operator;
 - iv. revenue share on collection of MAA-imposed fees paid by users and collected by Operator, expressed in percentage of fees remitted to MAA with remainder being retained by Operator;
 - v. revenue share on facilities rent paid by users and collected by Operator, expressed in percentage of gross revenues remitted to MAA with remainder being retained by Operator;
 - vi. Minimum Annual Guarantee (MAG) for total revenue to MAA; and/or
 - vii. any other additional Optional Scope Pricing Elements as the Proposer deems advisable to include in its Proposal, including any requested equity contribution by the Authority with respect to Optional Capital Investments.

(each, as proposed, the “Optional Scope Pricing Elements”).
- b. Proposers are encouraged to propose creative investment, financing, and/or contracting structures for the Optional Scope and Optional Terms to the extent permitted under the AL Airport P3 law and other Applicable Law.
- c. The Authority will enter into good faith negotiations with the Preferred Proposer to finalize any Option Terms to be incorporated into the FBO Services Agreement.
- d. Proposers may also propose to perform the Base Scope at risk in consideration of the opportunity to perform the Optional Scope.

5. Facilities and Areas Available for Required Services

5.1. Description and Condition of the FBO Site

- a. During the Operations Period, the areas and the facilities available for conducting the Management Services and the Capital Work will be (i) all areas and facilities within the West Ramp and the (ii) the Fuel Farm Site. The areas and the facilities available for conducting the Management Services and the Capital Work shall be known as the “FBO Site.” Such facilities will be owned by the Authority and made available to the Operator under the FBO Services Agreement.
- b. In 2022, MAA completed an a facility assessment for the buildings and hangar facilities on the West Ramp. The assessment team was tasked with providing only a visual inspection and report of the perceived building conditions of skin, interior, exterior and the roof condition and specific building systems, where applicable. The disciplines comprising the assessment team included: mechanical, electrical, and structural along

with a roofing consultant to assess roof conditions. The 2022 draft facility assessment report is included as a Reference Information Document as noted in Attachment 6.

- c. In 2023 and 2024, MAA conducted a pavement evaluation to assess the status and condition of all airside pavements at the Airport. The final MGM Pavement Management Program Implementation Report is included as a Reference information Document as noted in Attachment 6.
- d. Proposers should note that MAA anticipates a Phase 1 environmental review of the FBO Site will be conducted as part of the Transition Consulting Services pursuant to Section 4.2.a.i of this RFP.

5.2. Potential Areas and Facilities Available for the FBO Site

The areas and facilities that are and may be included in the FBO Site, in accordance with the foregoing Section 5.1 are shown in Attachment 4B and described in the following table. Proposers should note that unimproved land located elsewhere on the Airport is not included in the FBO Site. Unimproved land needed to accommodate development plans proposed by the Preferred Proposer in response to this RFP and accepted by the Authority, will be included in the FBO Site under the FBO Services Agreement. Additional detailed information regarding the condition of the facilities is provided in the Reference Information Documents.

FBO Site Areas and Facilities ¹	General Information
FBO Terminal and FBO West Hangar	
Building No. B8 (See Attachment 4B)	Approximately 32,700 sq. ft. combined FBO terminal building and hangar that includes:
Building No. B9 (See Attachment 4B)	• Original WWII Hangar: 22,000 sq. ft two-bay hangar with aircraft doors less than 28 feet and a 3,800 sq. ft East lean-to with a number of room - limited heating and general ventilation • North Lean-to: 5,000 sq. ft. addition with two small hangars – one hangar converted into office space with a split system air conditioning unit and other hangar used for general storage • FBO located in 7,600 sq. ft. addition to North lean-to that is air conditioned and heated – includes showers and restrooms for staff and transient pilots/crew • FBO office is approximately 2,685 sq. ft • WWII Hangar is in poor condition and likely needs to be replaced

¹ **Note to Proposers:** This table is for illustrative purposes only and may be adjusted by the Authority.

FBO Site Areas and Facilities ¹	General Information
Hangars	
Building No. B10 (See Attachment 4B)	Approximately 14,000 sq. ft. T-hangar complex: 10,500 sq. ft. 6-unit T-hangar with a connected 50' x 65' box hangar – in poor condition and needs to be demolished/replaced
Building No. B11 (See Attachment 4B)	Approximately 5,800 sq. ft. 2-unit box hangar – in poor condition and needs to be demolished/replaced
Building No. B12 (See Attachment 4B)	Approximately 8,700 sq. ft. corporate hangar – in poor condition and likely needs to be demolished/replaced
Building No. B13 (See Attachment 4B)	Approximately 12,000 sq. ft. 3-unit box hangar with aircraft doors less than 28 feet – each of the three (3) hangar bays has an air conditioned office with restroom/shower (hangar bay not proved with heat or exhaust fans)
Building No. B14 (See Attachment 4B)	Approximately 12,000 sq. ft. 3-unit box hangar with aircraft doors less than 28 feet – each of the three (3) hangar bays has an air conditioned office with restroom/shower (hangar bay not proved with heat or exhaust fans)
Apron	
West Ramp Apron	Approximately 120,000 sq. ft., excluding apron surrounding T-hangar complex (Building No. B10). The West Ramp Apron was recently determined to be in overall “Fair” condition. Discrete sections of the West Ramp Apron are in less than Fair condition. Note: there is a dumping station for Lav carts located on Airport property.
Automobile Parking Areas	
West Ramp FBO Parking Lot	Approximately 75 spaces in the parking lot adjacent to FBO terminal
New Fuel Facility	
~~Southwest Apron~~ <u>West Ramp</u>	~~Two (2) aboveground Jet-A fuel tanks—each with a tank capacity of 12,000 gallons~~ ~~One (1) aboveground 100L~~ <u>Aboveground Jet-A</u> fuel tank(s) with a ~~tank~~ capacity of ~~12,000~~ <u>65,000</u> gallons

5.3. East Ramp Excluded from the FBO Site

The current and anticipated areas and facilities on the East Ramp described and shown in Attachment 4A are excluded from the FBO Site. The Authority has separately approved a site plan for a consolidated rent-a-car (ConRAC) facility and hotel on the East Ramp. An indicative depiction of this site plan is include in Attachment 4A for reference purposes.

6. Specifications Applicable to the FBO Services Agreement

6.1. General Requirements

The Services and Work under the FBO Services Agreement will be subject to the following specifications:

- a. The Operator will report and remit all revenues generated from the provision and management of the FBO to MAA, except as may otherwise be negotiated as part of the Option Terms.
- b. The Operator shall annually provide a recommended operating budget, which shall be used by the MAA and Operator as a means of monitoring and controlling revenues and expenses of Operator and to measure performance under the Agreement. The annual operating budget will be subject to MAA approval as will unbudgeted expenditures that may arise during the Term.
- c. The FBO Site shall be used only to operate the FBO specified in the Agreement or by written consent of MAA and for no other purpose. All other uses are reserved to the Authority.
- d. The Services and Work must adhere to FAA regulations and applicable FAA Advisory Circulars, National Fire Protection Association standards, the Minimum Standards, the Rules and Regulations, and all other Applicable Law. The Operator will ensure that its provision of the Services and Work will not place the Authority in violation of FAA Grant Assurances.
- e. If through any cause, the Operator shall fail to comply with the FBO Services Agreement, the Authority shall have the right to terminate by written notice to the Operator of at least thirty (30) days. In this event, the Operator shall be entitled to just and equitable compensation for any satisfactory work completed.
- f. Any agreement or contract resulting from the acceptance of a Proposal shall be on forms either supplied by or approved by the Authority and shall contain, at a minimum, applicable provisions of the RFP. The Authority reserves the right to reject any terms that do not conform to the RFP and/or to any Authority requirements for agreements and contracts.
- g. The Operator shall not assign any interest in the FBO Services Agreement and shall not transfer any interest in the same without the prior written consent of the Authority.

- h. No reports, information, or data given to or prepared by the Operator under the FBO Services Agreement shall be made available to any individual or organization without prior written approval from the Authority.
- i. The Operator is responsible for any damage caused by its employees and/or equipment (or those of its subcontractors') to any Authority property.
- j. In the event a contract is entered into pursuant to this RFP, the Operator shall not discriminate against any qualified employee or qualified applicant for employment because of race, sex, color, creed, national origin, or ancestry. The Operator must include the foregoing provision in any and all subcontracts entered into pursuant to this RFP.

6.2. Insurance and Indemnification Requirements

6.2.1. General Insurance Requirements

- a. Before commencing the Services and Work, the Preferred Proposer must provide certificates of insurance to show that the minimum coverages and limits set forth in this Section 6.2 and the FBO Services Agreement are in effect. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Operator for ~~the~~ its operations. These are solely minimums that have been established to protect the interests of the Authority. The cost of such insurance shall be included in the Proposal.
- b. Each insurance policy required by this Section 6.2 shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after 30 Days' prior written notice has been given to the Authority.
- c. The Operator's failure to maintain the required insurance coverage shall be a material breach of contract. The Authority, at its sole option, may:
 - i. terminate the agreement and obtain damages from the Operator resulting from said breach; or
 - ii. purchase such required insurance coverage (but has no special obligation to do so) and, without further notice to the Operator, deduct from sums due to the Operator any premium costs advanced by Authority for such insurance.
- d. The Authority must be named or listed as an "additional insured" by endorsement on all of the Operator's insurance policies required under the FBO Services Agreement (with the exception of its worker's compensation policy).
- e. ~~Without~~During the Pre-Operations Period and without limiting any of the other obligations or liabilities of the Operator, the Operator will, ~~during the Term of and at all times while providing Services and Work under the FBO Services Agreement (and for 24 months thereafter with respect to environmental impairment liability),~~ procure and maintain in force, or cause to be procured and maintained in force ~~as follows,~~ at its own expense, the following insurance coverages:

- i. **Comprehensive General Liability:** general liability insurance having all major divisions of coverage, including: Premises and Operations Liability, Products and Completed Operations Liability, Personal Injury Liability, and Contractual Liability. The policy shall be written on an ISO occurrence form (current edition as of the date of this Agreement or equivalent) and limits shall not be less than:
 - ii. \$1,000,000 per Occurrence
 - iii. \$2,000,000 General Aggregate
 - iv. \$2,000,000 Products/Completed Operations Aggregate
 - v. \$1,000,000 Personal and Advertising Injury per Occurrence
 - vi. **Commercial Automobile Liability Insurance:** automotive liability insurance covering all motor vehicles, including: Owned/Leased and Hired/Non-owned coverage. Limits of coverage shall not be less than \$1,000,000 combined single limits for each occurrence. Coverage must be rated for vehicles transporting hazardous materials.
 - vii. **Workers' Compensation and Employers' Liability Insurance:** workers' compensation coverage with benefits and monetary limits as set forth in Alabama statutes, including coverage for Employer's Liability with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and a policy limit of \$1,000,000 by disease. Workers' Compensation coverage is required as a condition of performing work or services for the Authority whether the Operator is otherwise required by Applicable Law to provide such coverage.
 - viii. **Professional Liability (Errors & Omissions) Liability Insurance:** the minimum requirement shall be not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Unless otherwise specified, the limits of liability shall be dedicated to this project and no sharing of occurrence or aggregate limits will be permitted.
- f. During the Operations Period and without limiting any of the other obligations or liabilities of the Operator, the Operator will procure and maintain in force, or cause to be procured and maintained in force, as part of the approved operating budget, the following insurance coverages:
 - i. **Comprehensive General Liability:** general liability insurance having all major divisions of coverage, including: Premises ~~and~~ Operations Liability, Products and Completed Operations, Liability, Personal Injury Liability, and Contractual Liability. The policy shall be written on an ISO occurrence form (current edition as of the date of this Agreement or equivalent) and limits shall not be less than:
 - A. \$50,000,000 per Occurrence
 - B. \$50,000,000 General Aggregate
 - C. \$50,000,000 Products/Completed Operations Aggregate

- D. \$25,000,000 Personal Injury
- E. \$50,000,000 Contractual Liability
- F. \$50,000,000 Premises Legal
- G. \$3000 Medical Expense Limit
- H. \$25,000,000 Host Liquor Liability
- ii. **Commercial Automobile/~~Umbrella~~ Liability Insurance:** automotive liability insurance covering all motor vehicles, including: Owned/Leased and Hired/Non-owned coverage. Limits of coverage shall not be less than \$1,000,000 ~~per~~combined single limits for each occurrence. Coverage must be rated for vehicles transporting hazardous materials.-
- iii. **Workers' Compensation and Employers' Liability Insurance:** workers' compensation coverage with benefits and monetary limits as set forth in Alabama statutes, including coverage for Employer's Liability with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and a policy limit of \$1,000,000 by disease. Workers' Compensation coverage is required as a condition of performing work or services for the Authority whether the Proposer is otherwise required by Applicable Law to provide such coverage.
- iv. **Airport General Liability Insurance:** the minimum requirement shall be \$20,000,000 per occurrence and \$20,000,000 aggregate.
- v. **Hangar Keepers Liability:** the minimum requirement shall be \$20,000,000 aggregate.
- vi. **Non-Owned Aircraft Liability:** the minimum requirement shall be \$50,000,000.
- vii. **Environmental Impairment Liability:** the minimum requirement shall be \$1,000,000 per occurrence and \$2,000,000 aggregate.
- viii. **Employee Fidelity Bond:** a bond covering theft, dishonesty, disappearance, forgery, alteration, and destruction caused by any Operator employee. Each Operator employee shall be bonded to cover \$5,000.
- ix. **Operator Fidelity Bond (Crime Insurance):** a policy or bond covering theft, dishonesty, disappearance, forgery, alteration, and destruction caused by the Operator in amount equal to 50% of the current Operating Year's budgeted operating revenues.

6.2.2. Other Insurance Provisions

- a. The Authority and its boards, commissions, committees, officers, agents, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Operator; products and completed operations of the Operator; premises owned, leased, or used by the Operator or premises on which the Operator is performing services on behalf of the Authority. The

coverage shall contain no special limitations on the scope of protection afforded to the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers.

- b. The Operator's insurance coverage shall be primary insurance as respects the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers shall be in excess of the Operator's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers.
- d. Coverage shall state that Operator's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the limits of the insurer's liability.
- e. The insurer shall agree to waive all rights of subrogation against the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers for losses arising from activities and operations of the Operator in the performance of services under the FBO Services Agreement.

6.2.3. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers; or the Operator shall procure a bond guaranteeing payment of losses, related investigation, claim administration, and defense expenses.

6.2.4. Acceptability of Insurers

Insurance is to be placed with Alabama admitted insurers rated A- or better by A.M. Best's rating service.

6.2.5. Verification of Coverage

Preferred Proposer shall furnish the Authority with certificates of insurance and with original endorsements affecting coverage required by this Section 6.2. The certificates and endorsements for each policy must be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Authority before work commences under the FBO Services Agreement.

6.2.6. Subcontractors

The Operator shall include each of its subcontractors as insureds under the policies of insurance required herein.

6.2.7. Operator Indemnity

The FBO Services Agreement will include a customary provision requiring the Operator, to the fullest extent permitted by Applicable Law, release, protect, defend, indemnify, and hold harmless the Authority for bodily, injury, death, sickness, and property damage and destruction. Insurance coverage required and obtained by the Operator hereunder shall not limit, diminish, or serve as a substitute for the Operator's indemnity obligations to the Authority as set forth herein.

6.3. Bonding Requirements

6.3.1. Bid Guarantee

Proposers shall submit a bid guarantee in the amount of \$25,000 (the "Bid Guarantee") in the form of either: a proposal bond, cashier's or certified check, an irrevocable letter of credit, or cash.

6.3.2. Forfeiture of Bid Guarantee

- a. Forfeiture of the Bid Guarantee in accordance with the terms of the Proposal Letter will constitute liquidated damages. By submitting its Proposal, the Proposer agrees and acknowledges that such liquidated damages are reasonable in order to compensate the Authority for damages it will incur as a result of Proposer's failure to satisfy the obligations under the RFP to which Proposer agreed when submitting its Proposal.
- b. In submitting a Proposal, the Proposer understands and agrees that the Authority will be entitled to draw on such Proposer's Bid Guarantee in its entirety if, and only if, the Proposer does any one of the following:
 - i. withdraws, or attempts to withdraw, any part or all of its Bid Guarantee during the Proposal Validity Period without the prior written consent of the Authority, other than pursuant to Section 6.3.2.c;
 - ii. fails to comply with this Section 6.3.2.b;
 - iii. refuses or fails to enter into the FBO Services Agreement in the form included in the RFP (subject to any changes agreed by the Authority and Proposer after such date in accordance with Section 18.2) or otherwise fails to comply with Section 18;
 - iv. is deemed to have not negotiated in good faith in accordance with Section 18.2;
 - v. refuses or fails to perform any of the acts or to furnish any of the documents required to be performed and delivered in accordance with, or otherwise fails to comply with, Section 18.3;
 - vi. prior to execution of the FBO Services Agreement, refuses to incorporate into the FBO Services Agreement, or is otherwise unable to furnish, any commitments made in its Proposal; or

- vii. prior to execution of the FBO Services Agreement, withdraws or attempts to withdraw its Proposal, or refuses or fails to meet any commitments made therein that were to be fulfilled prior to execution of the FBO Services Agreement.
- c. The Authority will not be entitled to draw on a Proposer's Bid Guarantee if the Proposer is unable to comply with any modifications made to the RFP pursuant to the Reserved Rights after submission of such Bid Guarantee to the extent that such Proposer does not agree to such modifications and, as a result, withdraws its Proposal.
- d. The damages referred to in Section 6.3.2.a include potential harm to the credibility and reputation of the FBO operation at the Airport and of the Authority with policy makers and with the general public, delays to the FBO operation at the Airport, and additional costs of administering this or a new procurement (including engineering, legal, accounting, overhead, and other administrative costs).
- e. By submitting its Proposal, Proposer further acknowledges that these damages would be difficult and impracticable to measure and prove, are incapable of accurate measurement because of, among other things, the unique nature of the FBO operation at the Airport along with the efforts required to receive and evaluate proposals for it, and the unavailability of a substitute for those efforts.
- f. The amounts of liquidated damages stated in this RFP represent good faith estimates and evaluations as to the actual potential damages that the Authority would incur as a result of Proposer's failure to satisfy the obligations under the RFP to which Proposer agreed when submitting its Proposal, and do not constitute a penalty. By submitting its Proposal, Proposer agrees to such liquidated damages in order to fix and limit Proposer's costs and to avoid later disputes over what amounts of damages are properly chargeable to Proposer.
- g. Without limiting the Reserved Rights, following a draw on the Preferred Proposer's Bid Guarantee, the Authority may revoke the Notice of Intent to Award as to the Preferred Proposer and issue a new Notice of Intent to Award to the Proposer that submitted the next highest score relative to the Preferred Proposer previously identified.

6.3.3. Return of Bid Guarantee

- a. Except for any Bid Guarantee that has been forfeited, the Bid Guarantee of each unsuccessful Proposer shall be returned to the respective Proposers upon the earliest of:
 - i. the Proposal Validity Period, as extended, has expired;
 - ii. 15 Business Days following award and execution of the FBO Services Agreement; and
 - iii. 15 Business Days following cancellation of the procurement by the Authority.
- b. The Bid Guarantee for the Preferred Proposer shall be returned at such time as:

- i. such Proposer has satisfied all conditions of execution and award, including the conditions set forth in Section 18;
- ii. the Proposal Validity Period, as extended, has expired; or
- iii. the Authority cancels the procurement.

PART III: TERMS AND CONDITIONS GOVERNING THE PROCUREMENT

7. Contacts and Communication

7.1. Procurement Contact, Prohibited Communications, and Proposer's Official Representative

- a. Any questions about the RFP should be directed in writing to following individual designated for such communications (the "Procurement Contact"):

Loyd Jenkins

Address: Montgomery Airport Authority
Attn: Loyd Jenkins
Interim Executive Director
4445 Selma Highway
Montgomery, AL 36108

E-mail: FBORFP@flymgm.com

- b. Other than with written consent from the Procurement Contact, all Proposers, including any Persons affiliated with or in any way related to a Proposer, are strictly prohibited from contacting any MAA personnel, personnel of the City of Montgomery, or any Board personnel on any matter having to do with any aspect of this RFP during the procurement.
- c. Any other contact with such Persons associated with the Authority shall be made only through and in coordination with the Procurement Contact and must be made in writing. Prohibited or inappropriate contacts made by a prospective Proposer may result in the disqualification of such Proposer. This requirement will be strictly enforced.
- d. All communications by MAA will be made to each Proposer's single point of contact for that Proposer Team (the "Official Representative"). Each Proposer may provide and/or update the identity of its Official Representative from time to time by notifying the Procurement Contact via email of the name, title, mailing address, phone numbers (work and cell), email address, and fax number (if any) of the replacement Official Representative. Such email must be sent in the form of an RFP Comment pursuant to Section 7.3 below.

7.2. Reference Information Documents and Procurement Website

- a. MAA will provide each Proposer with technical and other information, listed in Attachment 6 (*Reference Information Document Log*), that may be helpful to such

Proposers in understanding the existing facilities at the Airport and the anticipated Services and Work (each, a “Reference Information Document”) through either:

- i. the limited-access document management and communications system, identified by MAA for the Proposers’ use during the procurement process (the “Procurement Website”); or
 - ii. the website available at flymgm.com/doing-business/, (the “Public Website”).
- b. Reference Information Documents are available for informational purposes only. Unless explicitly stated otherwise in any FBO Services Agreement, information comprising a Reference Information Document may not be relied upon by any Proposer or Operator and does not form a part of this RFP or any agreement between MAA and the Operator. MAA makes no representation, warranty or guarantee as to, and shall not be responsible for, the accuracy, completeness, or pertinence of the Reference Information Documents. MAA shall not be responsible for any conclusions drawn by any Person from any Reference Information Document. Each Proposer’s use or decision not to use a Reference Information Document is at its sole risk.
- c. MAA may provide Reference Information Documents which include certain confidential and privileged information to Proposers for use in preparing their Proposal. Such Reference Information Documents will be subject to the terms and conditions of a customary non-disclosure agreement.

7.3. Comments and Requests for Information

7.3.1. General Requirements for Preparation and Delivery of RFP Comments

- a. Proposers may submit written comments, questions, and/or requests for clarification (collectively, “RFP Comments”) relating to the RFP, including any Addenda, to the Procurement Contact at any time prior to the RFP Comment Deadlines set forth in the Procurement Schedule.
- b. RFP Comments will be submitted to the Procurement Contact by e-mail and will be in the form of Form CMT appended hereto.
- c. Proposers should assume that the Authority will not consider any RFP Comments that are submitted after the Final RFP Comment Deadline in the Procurement Schedule, except reasonable logistical questions received after such deadline, the response to which may be necessary to facilitate timely and compliant delivery of Proposals.
- d. Proposers are responsible for ensuring the receipt of their RFP Comments by the Procurement Contact through the use of automated receipt and read message confirmations.
- e. The Authority will not consider any RFP Comments that are:
 - i. telephone or oral comments;
 - ii. submitted by a Person with no clear affiliation to the Proposer that such Person purports to represent;

- iii. submitted to a Person other than the Procurement Contact specified herein; or
- iv. submitted in a manner other than the manner prescribed herein.

7.3.2. Responses to RFP Comments

- a. The Authority may, in its discretion, elect to address RFP Comments within an Addendum to this RFP that by its terms either reflects, or declines to reflect, a response to the substance of such comments.
- b. The Authority may also, but is not obligated to, provide written responses to RFP Comments. The Authority will endeavor to provide any written responses within a reasonable period following receipt. In responding to RFP Comments, MAA may rephrase them as it deems appropriate and may consolidate similar comments. MAA may also create and answer questions independent of those submitted by Proposers.

7.4. Addenda

- a. The Authority may elect to issue Addenda to this RFP. All Addenda will be posted on the Procurement Website.
- b. It is the responsibility of the Proposer to view, obtain or download all Addenda issued by the Authority for this RFP.
- c. Proposers are cautioned that in no event shall failure to familiarize themselves with the requirements of this solicitation or to resolve ambiguous or inconsistent terms or conditions in this RFP constitute grounds for a claim of any kind after contract award. Proposers are encouraged to carefully and completely read the RFP and raise any questions, clarifications, and requested changes as RFP Comments.

8. Site Visit, Pre-Proposal Conference, and Proposer Due Diligence Requests

8.1. Site Visit and Pre-Proposal Conference

A Site Visit and Pre-Proposal Conference is scheduled as specified in the Procurement Schedule of this RFP. The purpose of the Site Visit and Pre-Proposal Conference is to receive initial feedback from Proposers on the Authority's general approach and/or major issues that Proposer believe MAA will need to address by Addendum to ensure a successful procurement, including:

- a. MAA's approach to the procurement;
- b. additional information that would assist prospective respondents during the RFP process;
- c. substantive requirements related to the Services and Work; and
- d. clarification of the RFP process, specific statements in the RFP, and/or timeframes relating to the RFP.

NOTE: Proposers must attend the Site Visit and Pre-Proposal Conference in person in order to participate in the procurement contemplated in this RFP as a Proposer and to submit a Proposal in response to this RFP.

8.2. Final Site Visit and Proposer Requests for Supplemental Due Diligence

- a. A supplemental site tour for eligible Proposers (the “Final Site Visit”) is scheduled as specified in the Procurement Schedule of this RFP.
- b. Proposers will not access any part of the expected FBO Site or other areas or facilities on the Airport, for the purpose of carrying out Supplemental Due Diligence Activities unless and until MAA has approved such access and investigation in accordance with this Section 8.2. Furthermore, Proposer will not conduct intrusive investigations related to the Services and Work or other equivalent activities deemed inappropriate by MAA in its discretion.
- c. Proposers may submit Supplemental Due Diligence Requests for Restricted Access Inspections and Public Access Inspections at any time prior to the deadline therefore specified in the Procurement Schedule.
- d. All Supplemental Due Diligence Requests must be submitted in the form of Form 5, the Supplemental Due Diligence Request Form. Proposers should submit a separate Supplemental Due Diligence Request with respect to each requested Supplemental Due Diligence Activity.
- e. MAA reserves the right to reject any Supplemental Due Diligence Request, including on the basis that such request is excessive in scope or otherwise unreasonable (taking into account all other Supplemental Due Diligence Requests submitted by the same Proposer), and to otherwise impose conditions on any Supplemental Due Diligence Request approval.
- f. Proposers are responsible for all costs and expenses of, and for securing any required third-party consents or permits necessary for them to conduct any otherwise-approved Supplemental Due Diligence Activities, including all costs of compliance with any training, safety, protective equipment, or other requirements for access imposed by MAA as conditions for approval.
- g. MAA will use reasonable efforts:
 - i. to provide a Proposer with written feedback on any Supplemental Due Diligence Request promptly following receipt, provided, however, that the Authority may approve (with or without conditions or modifications) or disapprove any such request in its discretion; and
 - ii. to maintain the confidentiality of any Supplemental Due Diligence Request during the procurement process described in this RFP, provided that MAA may respond to Proposer’s request for Restricted Access Inspections or Public Access Inspections by providing all Proposers with such access, either collectively or individually at different times.

9. Ethics

9.1. Conflicts of Interest

Proposers are required to comply with FAA and MAA conflict of interest policy requirements. As such:

- a. Proposers are required to comply with federal organizational conflict of interest guidance. All Persons participating in the procurement should be familiar with all requirements of applicable federal law and FAA regulations, circulars, and guidance regarding organizational conflicts of interest. Any failure to comply with the FAA requirements in any respect, including the failure to disclose any actual, perceived, or potential conflict of interest, may result in Proposer's disqualification from participating in the solicitation.
- b. Proposers are required to comply with MAA's conflict of interest policy. Proposers are also advised that MAA's guidelines relating to organizational conflicts of interest in this RFP are intended to augment applicable federal and State law. Such Applicable Law will also apply to Proposers' teams and may preclude certain firms and their entities from participating on a certain Proposer's team.

9.2. Disclosure of Conflicts

- a. Proposers will provide information concerning organizational conflicts of interest and disclose all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest (i) at any time during the procurement, as soon as such conflict is discovered, and (ii) in its Proposal (which requirement may be satisfied by inclusion of a confirmation that no such organizational conflicts of interest exist in relation to such Proposer).
- b. By submitting its Proposal, each Proposer agrees that, if an organizational conflict of interest is discovered, Proposer must make an immediate and full written disclosure to the Authority that includes a description of the conflict and the action that Proposer has taken or proposes to take to avoid or mitigate such conflicts.
- c. If an organizational conflict of interest that a Proposer knew, or should have known about, but failed to disclose is determined to exist during the procurement process, MAA may disqualify such Proposer and Proposer waives all rights and claims against the Authority. If an organizational conflict of interest that Proposer knew, or should have known about, but failed to disclose exists and Proposer has entered into the FBO Services Agreement, MAA may terminate such agreement, or disqualify certain members from continued participation on a Proposer's team, in its discretion and Proposer waives all rights and claims against the Authority. In either case, MAA reserves all legal rights and remedies.

10. Disqualification for Non-Compliance

- a. Any violation by any Proposer or other Person of, or failure to comply with, Sections 7 and 9 of this RFP may, in MAA's discretion, may result in the relevant Proposer and/or

Person being disqualified from further participation in the procurement process described in this RFP.

- b. A proposal will not be considered from any Person, firm, or corporation that is in arrears or in default to the Authority on any contract, debt, or other obligation, or if the Proposer is debarred by the Authority from consideration for a contract award.

PART IV: RFP SUBMISSION REQUIREMENTS

11. Delivery, Timing, and Procedure

11.1. Location and Manner of Delivery

- a. Proposals will be submitted **BOTH**:
 - i. electronically through the Procurement Website; and
 - ii. by postal mail **on a USB flash drive** via U.S. certified or registered mail with return receipt requested and postage prepaid or by nationally recognized express or overnight courier addressed to:

Montgomery Airport Authority
Attn: Loyd Jenkins
Interim Executive Director
4445 Selma Highway
Montgomery, AL 36108

in the format specified in Section 11.4 below.

- b. Proposals received after the Proposal Submission Deadline will not be considered or evaluated. Requests for extension of time to submit will not be granted. Late proposals will be rejected. Requests to modify or withdraw a proposal after its submission will not be considered.
- c. Proposers are solely responsible for ensuring that the Authority receives their proposals by the Proposal Submission Deadline.
- d. The Authority will not bear any responsibility for any delays in delivery, including those caused by weather, difficulties with internet or servers, improper, incorrect, or incomplete uploading of documents.

11.2. Proposal Validity Period

- a. Any Proposal submitted will constitute an irrevocable offer, for a period of 180 Days, to sell to the Authority the services set forth therein. No Proposal may be withdrawn for a period of 180 Days after the Proposal Submission Deadline.
- b. Each Proposal will remain valid for acceptance by the Authority for the duration of the Proposal Validity Period, provided that any Proposer may elect, in its discretion, to extend the validity of its Proposal beyond the date on which the Proposal Validity Period with respect to such Proposal would otherwise expire in accordance with the definition of Proposal Validity Period.

11.3. General Requirements for Preparation and Submission

- a. It is the sole responsibility of the Proposer to ensure that the Proposal arrives on time and bears the signature of an officer duly authorized to sign. The name, address, and telephone number of the person to contact must be clearly identified.
- b. Submission of a Proposal establishes a conclusive presumption that the Proposer is thoroughly familiar with the RFP and that the Proposer understands and agrees to abide by all stipulations and requirements contained herein.
- c. All costs incurred in the preparation and presentation of the Proposal are the Proposer's sole responsibility; no costs will be reimbursed to any Proposer.
- d. Proposals will be submitted exclusively in the English language inclusive of United States customary units of measure, and financial terms in United States dollar denominations. Notwithstanding such requirements, additional references may be made to the International System of Units and to monetary amounts in a different base currency provided that any such amounts are also specified in US dollars at an appropriate rate of conversion.
- e. If a Proposer is expected to be a Joint Venture, or a newly formed or special purpose entity, then all members or partners of that Joint Venture or other entity will collectively be considered to be the Proposer on a joint and several basis. Therefore, any information that is required to be submitted as part of the RFP by one such entity must be submitted by each member or partner of the Joint Venture or other entity unless otherwise expressly provided. These requirements apply regardless of whether the relevant Joint Venture or other entity considers itself a partnership or is formed prior to submission of its Proposal.
- f. If Proposer is expected to be a Joint Venture, and the obligations of the members and partners of such Joint Venture will not be joint and several, then such Proposer must clearly and specifically identify and explain the anticipated structuring of member and partner liabilities for such Joint Venture in its Proposal. Proposers should note, however, that the Authority may, in its discretion, based upon its review of a Proposal, require all members or partners to assume joint and several liability as a condition precedent to a Proposer being identified as the Preferred Proposer and entering into the FBO Services Agreement.
- g. If Proposer does not include information or materials in its Proposal that are required to be submitted only if certain circumstances apply (and such circumstances do not apply), then to facilitate MAA's evaluation, such Proposer will include in the relevant section in its Proposal a statement to the following effect: "[Cross referenced requirement of the RFP] do[es] not apply because [insert brief explanation]."
- h. Any reference in the submission requirements in this RFP to a prior time period (e.g., the past 10 years, the past 12 months, etc.) is to such period ending on the date of this RFP's initial issuance; provided that Proposers will have an obligation to promptly disclose any subsequent events or circumstances that occur prior to MAA's notification of award to the extent that such events would otherwise result in the Proposal

containing an untrue or misleading statement of a material fact or an omission of a material fact necessary to make the Proposal's contents true and otherwise not misleading.

11.4. Format

- a. Each Proposer will submit an electronic copy of each of:
 - i. the Proposal; and
 - ii. the Redacted Proposal (as defined below),
 in searchable and printable format compatible with portable document format (.pdf) that corresponds to the requirements in Section 12 (except that original executed letters need not be searchable).
- b. Each Proposer will submit one clean and one redacted copy of its Proposal and will clearly mark "Clean" or "Redacted", as applicable, in the .pdf file name.
- c. To facilitate printing as necessary, electronic submissions must be prepared on 8-1/2" x 11" sized sheets, except that 11" x 17" pages are allowed for schematics, organizational charts, other drawings, and schedules but not for narrative text. Size 11" x 17" pages should not be used for the primary purpose of working around the page number restrictions. If used for that purpose, those pages will be counted as two (2) pages.
- d. Font sizes will be no smaller than 11-point font, provided the font in organizational charts, graphics and tables may be smaller than 11-point provided it is legible, and that such graphics and tables are not produced for the primary purpose of working around the 11-point font restriction for narrative text.
- e. All pages will be sequentially numbered within each volume. Additional material (excluding any table of contents or any pages used as dividers) is subject to any applicable page limitation.

12. Submission Contents and Organization

Proposers must organize their Proposal in the order outlined below in this Section 12. Proposers are responsible for submitting all materials required by this RFP. Additional material (excluding any table of contents or any pages used as dividers) is subject to any applicable page limitation. Each volume may be subdivided as needed, so long as Proposers tab the content of their Proposal to correspond to the volumes in the table below for ease of MAA's review.

<u>Proposal Section</u>	<u>Required Material</u>	<u>RFP Reference</u>	<u>Page Limit</u>
VOLUME 1	Administrative Submission		
1.1	Proposal Letter, including Annex A (as applicable)	Section 13.1	Form 1
1.2	Required Disclosures and Certifications	Section 13.2	Form 2
	a. Company Information Form	Section 13.2.a	Form 2 –

<u>Proposal Section</u>	<u>Required Material</u>	<u>RFP Reference</u>	<u>Page Limit</u>
			Part A
	b. Conflict of Interest Statement	Section 13.2.b	Form 2 – Part B
	c. Non-Collusion Affidavit	Section 13.2.c	Form 2 – Part C
	d. Debarment and Suspension Certification	Section 13.2.d	Form 2 – Part D
	e. Statement of Insurance Providers	Section 13.2.e	Form 2 – Part E
	f. Claims History Questionnaire	Section 13.2.f	Form 2 – Part F
	g. Certification Regarding Lobbying	Section 13.2.g	Form 2 – Part G
VOLUME 2	Technical Submission		
2.1	Executive Summary and Conceptual Plan	Section 14.1	5 pages
2.2	Operations and Management Plan	Section 14.2	10 pages
2.3	Information Regarding Industry Experience	Section 14.3	Form 3
2.4	Business Plan	Section 14.4	10 pages
2.5	Capital Investment and Fixed Improvements Plan	Section 14.5	5 pages
VOLUME 3	Financial Submission		
3.1	Financial Statements and Certifications	Section 15.1	N/A
3.2	Cost, Fee, and Financial Investment Proposal	Section 15.2	Form 4
3.3	Bid Guarantee	Section 15.3	N/A
VOLUME 4	Redacted Submission		
4.1 (to be separately provided)	Redacted Proposal ² (excluding content that is exempt from disclosure under Public Records Law)	Section 16.1.4	N/A

² **Note to Proposers:** this volume of the Proposal must be provided in a separate .pdf.

13. Administrative Submission

13.1. Proposal Letter

Each Proposer shall provide a Proposal Letter in the form of Form 1 with its Proposal. Signature blocks on Form 1 may be modified to properly reflect the authority of the Person signing, although the corresponding certification language must not be altered. The Proposal Letter will include, as Annex A, any Option Terms in the form of a mark-up of the FBO Services Agreement in accordance with Section 18.2.b.

13.2. Required Disclosures and Certifications

Each Proposal must be accompanied by the following disclosures and certifications described in this Section 13.2:

- a. Company Information Form: Each Proposer shall provide general company information regarding the Proposer in the form of Form 2 – Part A.
- b. Conflict of Interest Statement: In accordance with Section 9, Proposer shall provide either confirmation of absence of any organizational conflicts of interest and any potential organizational conflict of interest; or narrative description of any organizational conflicts of interest or potential organizational conflict of interest in the form of Form 2 – Part B.
- c. Non-Collusion Affidavit: Each Proposer must complete Form 2 – Part C and submit a signed copy with its Proposal.
- d. Debarment and Suspension Certification: Each Proposer must complete Form 2 – Part D (*Debarment and Suspension Certification*) and submit a signed copy with its Proposal.
- e. Statement of Insurance Provider(s): In accordance with Section 6.2, each Proposer must complete Form 2 – Part E (*Statement of Insurance Provider(s)*) and submit a statement, signed by its insurance provider(s), declaring that the insurance provider has read and reviewed all insurance coverages specified in the form of Agreement included in the RFP, and that the entities required to obtain such insurance under the Agreement have the capability of obtaining such insurance in the coverages and under the conditions listed in the Agreement.
- f. Claims History Questionnaire: Each Proposer must complete Form 2 – Part F (*Claims History Questionnaire*) with respect to Proposer, providing a list of all claims and a description (including the resolution thereof) of each arbitration, litigation, dispute review board, licensure board, administrative action of deficient performance, debarment and other formal dispute resolution proceeding occurring during the last five (5) years related to the provision of FBO services in North America.
- g. Certification Regarding Lobbying: Each Proposer must complete Form 2 – Part G (*Certification Regarding Lobbying*) with respect to Proposer, providing a certification with respect to the Byrd Anti-Lobbying Amendment, which provides that consultants and contractors that apply or bid for certain awards must certify they will not and have not used federal appropriated funds to pay any person or organization for influencing

or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or another award covered by 31 USC § 1352.

14. Technical Submission

14.1. Executive Summary and Conceptual Plan

Each Proposer will provide a comprehensive overview of the Proposal that includes, at a minimum:

- a. an executive summary that is written in a non-technical style that provides: (x) an overview of the approach, innovations, key risks anticipated, and the value engineering/mitigation methods proposed that will result in a realization of the Authority goals identified in Section 1.2; and (y) a summary of Proposer's approach to maximizing the likelihood of successful implementation of the Operations and Management Plan described below with particular reference to any unique, differentiating features in the Proposal, provided that such executive summary should not contain any confidential or proprietary information; and
- b. a conceptual plan describing the proposed delivery of the Services and Work throughout the Term, including the Pre-Operations Period; a conceptual layout of the FBO Site with any proposed alternatives or options; a summary of Proposer's team, key subcontractors, and Key Personnel, specifically a description of their credentials, business acumen, familiarity with airport operations and experience in managing airport enterprises; a summary of the proposed management, decision-making and day-to-day operational structure of the Proposer that accounts for innovative technologies and key constraints within the FBO Site; summary of the Proposer's approach to collaboration and coordination with MAA with respect to the Transition Consulting Services; and a description of the fee and cost structure for delivery of the Services and Work.

14.2. Operations and Management Plan

Each Proposer must address each element of the Services and Work with details regarding Proposer's plan to operate and manage the FBO. Such details should demonstrate Proposer's ability to provide at least the Legacy Required Operations and Legacy Maintenance Obligations. At a minimum, each Proposer should provide:

- a. a scope of work document that may be conformed and appended to the FBO Services Agreement as an exhibit that describes each element of the Base Scope and the Optional Scope as proposed and includes a responsibility matrix that illustrates the allocation of responsibilities between the Authority and Operator.
- b. a transition plan that describes delivering Transition Consulting Services to facilitate mobilization of the FBO and Proposer's capabilities related to such services.

- c. a staffing plan that demonstrates understanding of the MGM operations and coverage for an FBO and fueling operation 24 hours, seven (7) days per week, each week of the year;
- d. a training plan outline for all key duties;
- e. an organizational chart depicting its corporate structure and a team organizational chart identifying Key Personnel within Proposer's professional and management structure. Proposer shall attach resumes for each Key Personnel identified in the team organizational chart or otherwise in the Proposal. It is expected that that team organizational chart will include, at a minimum:
 - i. a full time FBO manager that has experience managing at least one (1) FBO location, similar to this opportunity or larger;
 - ii. supervisors, to demonstrate that the FBO will have at least one (1) supervisor on duty or on call 24 hours a day, to coordinate customer service, ramp assistance, fueling, and fee collection; and
 - iii. properly trained fuelers and line staff, to demonstrate the FBO will always have staff on duty to meet the Airport's needs.
- f. a narrative of its proposed management structure for delivery of the Services and Work; which narrative will:
 - i. explain how the Proposer anticipates integrating and utilizing the collective experience of all its personnel (including Key Personnel engaged in the management and operations of the Airport and other individual professionals);
 - ii. describe Key Personnel experience with an emphasis on recent (within the past five (5) years) experience at airports of a similar size and with similar regulatory requirements;
 - iii. outline how the Proposer will liaise and otherwise work collaboratively with MAA and key stakeholders during the Term; and
 - iv. explain how the Proposer anticipates establishing and implementing interrelated processes and controls that manage costs and risks, while at the same time encouraging innovation.
- g. a DBE/WBE plan in accordance with 49 CFR Part 26 and consistent with the Authority's policy described in MAA's Procurement Contract Guidelines to foster and promote participation of Disadvantaged Business Enterprises ("DBE") and Women-owned Business Enterprises ("WBE") in its procurements and to facilitate a fair share of the awarding of procurement contracts to such enterprises by using best efforts to achieve a 15% DBE/WBE spend on non-AIP Projects (this goal may be achieved through an ownership position with a certified DBE/WBE or through a dedicated commitment to purchase goods and services from certified DBE/WBE vendors); which DBE/WBE plan will include:

- i. a description of any outstanding achievements of DBE/WBE participation in past projects/programs and final performance on applicable DBE/WBE goals for all past performance cited in the Proposal;
 - ii. the names and addresses of DBEs and WBEs that will participate in the FBO Services Agreement along with the dollar amount of the participation of each such firm;
 - iii. a description of the scope of work to be performed by DBEs and WBEs along with the duration of the assignments and how the assignments coordinate with the overall management structure;
 - iv. a written statement from the Proposer that attests its commitment to use the DBEs and WBEs identified in the foregoing Section 14.2.g.ii to meet the Authority's goal of achieving a 15% DBE/WBE spend in the FBO Services Agreement;
 - v. a written confirmation from each of the DBEs and WBEs identified in the foregoing Section 14.2.g.ii that it is participating in the FBO Services Agreement in the kind and amount of work provided in the Proposer's commitment;
- provided, however, that if a Proposer cannot meet the 15% DBE/WBE spend in the FBO Services Agreement, such Proposer must provide evidence of good faith efforts undertaken by the Proposer as described in Appendix A to 49 CFR Part 26; such evidence of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the Proposer when a non-DBE subcontractor was selected over a DBE for work on the FBO Services Agreement.

14.3. Information Regarding Industry Experience

Each Proposer must provide information detailing the prior experience of the Proposer in the form of Form 3 (*Information Regarding Industry Experience*) regarding at least three (3) but no more than five (5) similar projects/programs performed for private, state, or local government clients within the last five (5) years, emphasizing experience that is directly relevant to Proposer's vision and conceptual approach. Such projects/programs should be of analogous complexity, demonstrate the requisite experience for the proposed scope of the Services and Work, and to the extent applicable, identify Key Personnel involvement. References and a brief description of the FBO management services that were provided either as a direct employee, as owner/lessee, or under a similar management contract should be provided. Any references included in Form 3 should be able to provide information as to Proposer's experience and performance within the last five (5) years related to airport management.

14.4. Business Plan

Each Proposer must provide a business plan that includes:

- a. a summary of the market analysis conducted to support Proposer's decision to submit a Proposal;
- b. a narrative describing the rationale and proposed fee and cost structure for the Base Scope, the Incentive Fee (if any), and any Optional Scope along with a summary of any commercial terms proposed as Option Terms; such summary must include the Proposer's preferences with respect to the following:
 - i. Term, Renewal, and Handback Approach: minimum term of the option to support the Optional Capital Investments described in the Capital Investment And Fixed Improvements Plan, preferred contractual option for Term renewal, and preferred approach for handback at the end of the Term;
 - ii. Grant of Rights/Nature of Option: preferred form(s) for the grant of rights provided by the Authority (e.g. franchise, concession, lease, license etc.) under the FBO Services Agreement along with any anticipated legal, financial, tax or contractual issues regarding the same;
 - iii. Key Performance Indicators: proposed financial metrics and/or performance objectives if an Incentive Fee is included in the Proposal;
 - iv. Revenue Share: proposed revenue sharing structure; ~~and~~
 - v. [Insurance Requirements: any amendments to insurance requirements to align such requirements to the anticipated operations; and](#)
- c. pro forma financial forecasts for the Base Scope, a five-year projection of revenues, expenses, management fee, and revenue to the Authority for each Operating Year of the initial five-year Term.

14.5. Capital Investment and Fixed Improvements Plan

Proposers must provide a capital investment and fixed improvements plan (the "Capital Investment and Fixed Improvements Plan") that includes:

- a. a narrative regarding the proposed level and types of capital investments for Required Improvements and Capital Improvement Projects, which includes a detailed description of how capital funding will be allocated and sourced for the development of the FBO;
- b. a proposed schedule for the commencement and completion of Required Improvements and Capital Improvement Projects, which demonstrates completion of minimum investments by conclusion of the initial Term of the Agreement; and
- c. a narrative regarding the proposed level and types of any Optional Capital Investments with reference to the Option Terms;
- d. a proposed schedule for the commencement and completion of any Optional Capital Investments with reference to the Option Terms; and
- e. a description of any facilities the Proposer plans and/or recommends to construct, improve, or renovate on the FBO Site. Renderings and conceptual site plans are

encouraged but not required. Any renderings and conceptual site plans will not count towards the applicable page limit.

15. Financial Submission

15.1. Financial Statements and Certifications

- a. Each Proposer shall provide financial statements for the three (3) most recently completed fiscal years, demonstrating its financial ability to successfully execute its Proposal, including any anticipated capital investment. Financial statements will include:
 - i. opinion letter (auditor's report),
 - ii. balance sheet,
 - iii. income statement,
 - iv. statement of cash flow, and
 - v. footnotes;provided that, if any set of financial statements did not include, when prepared, any of the above, then the Proposer will include an explanation for such non-inclusion.
- b. Any Proposer that files reports with the US Securities and Exchange Commission will submit financial statements by submitting a copy of such entity's annual report on Form 10-K. To the extent a Form 10-K is not yet available for the most recent fiscal year for which financial statements are required to be submitted, the Proposer will submit a copy of any report filed on Form 10-Q or Form 8-K which has been filed since the latest filed Form 10-K.
- c. To the extent available, all financial statements provided shall be audited. To qualify as "audited" such financial statements must be audited by an independent party qualified to render audit opinions (e.g., a certified public accountant). If unaudited financial statements are provided:
 - i. the Proposer must state that the audited statements are not available and provide a statement explaining why audited financial statements are unavailable with respect to each fiscal year for which financial statements are required to be submitted; and
 - ii. such unaudited financial statements will be certified as true, correct, and accurate by the chief executive officer, chief financial officer, or treasurer (or by such equivalent position or role) of the relevant entity.
- d. Each Proposer will provide a statement regarding the presence or absence of any material changes in financial condition for any entity for which financial statements are provided for the past three (3) fiscal years and anticipated for the next reporting period. A change in financial condition is considered material when it is an excess of 10% from the prior fiscal year. If no material change has occurred and none is pending, Proposer will provide a letter from its respective chief executive officer, chief financial officer, or

treasurer (or equivalent position or role) so certifying. In instances where a material change has occurred, or is anticipated, the Proposer will provide a statement describing:

- i. such change;
 - ii. actual and anticipated changes or disruptions in executive management relating to such change;
 - iii. the likelihood that such change will continue during the proposed duration of the FBO Services Agreement;
 - iv. the projected full extent, nature and impact, positive and negative, of such change experienced and anticipated to be experienced in the proposed duration of the FBO Services Agreement;
 - v. how such change is anticipated to affect the organizational and financial capacity and ability of the Proposer.
- e. Each Proposer will provide a letter from the chief financial officer or treasurer (or equivalent position or role) of the entity or a certified public accountant stating that the entity has no off-balance sheet liabilities; provided that if the Proposer cannot so state, such Proposer will provide a letter identifying all off-balance sheet liabilities in excess of one million dollars (\$1,000,000) in the aggregate.

15.2. Cost, Fee, and Financial Investment Proposal

Proposers will submit a cost proposal in the form of Form 4, the “Cost, Fee, and Financial Investment Proposal.” The Cost, Fee, and Financial Investment Proposal must include the following components:

- a. payment for the Transition Consulting Services reflected as:
 - i. the Consulting Fee as either a flat fee or a fully burdened annual rate along with the number of employees for each position title required for the Transition Consulting Services; provided that, the Consulting Fee proposed may be zero in accordance with Section 4.5.4.d;
 - ii. the total proposed Consulting Price;
- b. payment for the Management Services and Operating Budget Costs reflected as:
 - i. the Annual Base Fee for each Operating Year of the initial Term;
 - ii. the Incentive Fee (if any);
 - iii. the annual Budgeted Operating Costs for each Operating Year of the initial Term;
 - iv. the total proposed cost of the Management Fee and Budgeted Operating Costs for the first five (5) Operating Years; and
- c. investments in the Capital Work, reflected as:

- i. the minimum investment in the Required Improvements;
 - ii. any proposed investment in Capital Improvement Projects provided that the proposed amount may be zero in accordance with Section 4.5.3.b; and
 - iii. the total proposed investment related to the Capital Work.
- d. The Cost, Fee, and Financial Investment Proposal may include the following components: the proposed amounts for any Optional Scope Pricing Elements; provided that such amounts must be no lower than the minimums provided in Section 4.5.4.a.

15.3. Bid Guarantee

- a. Each Proposal must contain a Bid Guarantee in the form of a proposal bond, certified check, cashier's check, irrevocable letter of credit, or cash. The Bid Guarantee shall be in an amount of \$25,000.
- b. By submitting its Proposal, the Proposer understands and agrees that the Proposal may not be withdrawn during the Proposal Validity Period, without the written consent of the Authority.
- c. It is also understood and agreed that the Bid Guarantee may be forfeited in accordance with Section 6.3.2 and shall be returned in accordance with Section 6.3.3.

16. Redacted Submission

16.1. Public Records Law Requirements

16.1.1. Ownership of RFP Submissions

The Authority will retain full title to and ownership of all Proposals and Proposer submissions made pursuant to this RFP. Such documents will not be returned to Proposers.

16.1.2. Compliance with Public Records Law

The Proposer acknowledges that any materials or documents provided to Authority may be "public records" and subject to disclosure under State law (the "Public Records Law"). Proposers are encouraged to familiarize themselves with the Public Records Law.

16.1.3. Submission of Confidential and Proprietary Information

In the event a Proposer submits any information that is not subject to disclosure pursuant to the Public Records Law ("Public Records Exempt Materials"), it must:

- a. if the submission is made as part of the Proposal, provide a redacted copy of the Proposal in accordance with Section 16.1.4; and
- b. if the submission is made other than as part of the Proposal, conspicuously mark the affected document "CONFIDENTIAL" or "CONFIDENTIAL TRADE SECRETS" in the header or footer of each such page affected.

16.1.4. Redacted Proposal

- a. Any Proposer that submits a Proposal containing any Public Records Exempt Materials must prepare and submit one copy of the Proposal that redacts the Public Records Exempt Materials (the "Redacted Proposal"). This redacted version must be identical to the corresponding volumes of the Proposal other than redactions that only exclude Public Records Exempt Materials.
- b. The Redacted Proposal will be included as a fourth volume of the Proposal and provided in a separate .pdf file.

16.1.5. Assessment of Confidential and Proprietary Information

- a. The Authority will not advise Proposers (x) as to the nature or content of documents entitled to protection from disclosure under the Public Records Law or other Applicable Law, (y) as to the interpretation of such laws, or (z) as to the definition of a confidential document or trade secret.
- b. Nothing contained in this Section 16.1.5 will modify or amend requirements and obligations imposed on MAA by the Public Records Law or other Applicable Law.
- c. MAA reserves the right to disagree with a Proposer's assessment regarding confidentiality or proprietary nature of information in the interest of complying with the Public Records Law. The provisions of the Public Records Law or other Applicable Law will control in the event of a conflict between the procedures described above and the Applicable Law.

16.1.6. Review by Key Stakeholders

Information submitted by Proposers, including Public Records Exempt Materials, may be made available to representatives of key stakeholders as necessary to facilitate review and evaluation of Proposals and other Proposers' submissions during the procurement. To the extent reasonably possible, MAA intends to follow procedures that will preserve confidentiality relating to Public Records Exempt Materials.

16.2. Disclosure Disputes and Liability

- a. In the event of any proceeding or litigation concerning the disclosure of any material submitted by a Proposer, MAA will be the custodian retaining the material until otherwise ordered by a court or such other authority having jurisdiction with respect thereto, and the submitting party will be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk; provided, however, that MAA reserves the right, in its respective sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. All costs and fees (including attorneys' fees and costs) incurred by MAA in connection with any litigation, proceeding, or request for disclosure will be reimbursed and paid by the Proposer objecting to the disclosure. Each Proposer will be responsible for all of its own costs in connection with any litigation, proceeding, or request for disclosure. In no event shall MAA be responsible for any of Proposers' legal fees, expenses or costs.

- b. In no event will MAA or any of its agents, representatives, consultants, directors, officers, or employees be liable to a Proposer for the disclosure of all or a portion of a Proposal submitted under this RFP and Proposer acknowledges and agrees to this waiver of liability.

PART V: EVALUATION AND SELECTION PROCESS

17. Evaluation Process

The Authority anticipates conducting the evaluation of Proposals as set forth in this Section 17 and reserves the right to request any supplementary information it deems necessary to evaluate the Proposer's experience and qualifications or to clarify or substantiate any information contained in any Proposal. All Proposers will be notified of the results of the selection process. The selection process used for determining the most successful proposal is best described as a "Competitive Proposal" process in which pricing is one of the most important criteria but not the only criteria. The factors in the evaluation process include the Pass/Fail Evaluation Criteria and the Substantive Evaluation Criteria.

17.1. Evaluation Criteria

A committee appointed by the Authority will review and evaluate responses to this RFP, (the "Evaluation Committee"), taking into consideration the evaluation criteria provided herein. The Authority anticipates using the following criteria to evaluate Proposals:

17.1.1. Pass/Fail Evaluation Criteria

- a. At the first stage of the evaluation process, MAA shall consider whether each Proposal complies with the Pass/Fail Evaluation Criteria set out in Section 17.1.1 Subject to MAA's reservation of rights under Section 19, a Proposer shall be required to obtain a "pass" (defined as having fully complied with a criterion) on all Pass/Fail Evaluation Criteria in order for it to be eligible to be selected by the Authority as the Preferred Proposer. A "failure" on any one of the Pass/Fail Evaluation Criteria may result in MAA not evaluating the relevant Proposal any further.
- b. The "Pass/Fail Evaluation Criteria" consist of the following:

<u>Pass/Fail Evaluation Criteria</u>		<u>Potential Disposition</u>	<u>RFP Reference</u>
1	Proposal submitted on or before the Proposal Submission Deadline (1) electronically via the Procurement Website AND via postal mail on a USB flash drive.	Pass/Fail	Section 11
	Responsiveness and conformance to the RFP instructions regarding organization and format	Pass/Fail	Part IV

<u>Pass/Fail Evaluation Criteria</u>		<u>Potential Disposition</u>	<u>RFP Reference</u>
2			
3	Proposal includes all materials required to be submitted, as independently verified by the Authority.	Pass/Fail	Section 12
4	Proposer's required disclosures and certifications shall not materially or adversely affect the Proposer's ability to carry out the program responsibilities potentially allocated to it.	Pass/Fail	Section 13.2
5	Proposer demonstrates financial capacity to perform the services described in this RFP and in the Agreement.	Pass/Fail	Section 15.1

17.1.2. Substantive Evaluation Criteria

- a. Following evaluation of the Pass/Fail Criteria and subject to MAA's reservation of rights under Section 19, MAA will substantively evaluate each Proposal by considering the merits of each Proposer's overall qualifications, experience, and approach by reference to the Substantive Evaluation Criteria. This evaluation will include scoring. Under this scoring process, MAA may award an aggregate maximum of 550 points to any Proposal, with the maximum number of points assigned to the Substantive Evaluation Criteria being as set out in Section 17.1.2.b below.
- b. The "Substantive Evaluation Criteria" consist of the following:

<u>Substantive Evaluation Criteria</u>		<u>Maximum Points</u>
1	Proposer's Competency and Industry Experience, as demonstrated by: Past Performance and Industry Experience	100
2	Proposer's Technical Approach and Business Plan, as demonstrated by: Operations and Management Plan, Business Plan, and Capital Investment and Fixed	200

<u>Substantive Evaluation Criteria</u>		<u>Maximum Points</u>
	Improvements Plan	
3	Proposer's Financial Ability to Perform, as demonstrated by: Financial Statements and Certifications	100
4	Proposed Payments, Operating Costs, and Anticipated Revenues, as demonstrated by : Proposer's Cost, Fee, and Financial Investment Proposal	150
TOTAL		550

- c. In considering each of the Substantive Evaluation Criteria and otherwise in evaluating each Proposal:
- Proposers may be invited to participate in an interview that includes a presentation of the Proposal;
 - the Evaluation Committee may consider as relevant (or irrelevant) any component of that Proposal in its evaluation of the Substantive Evaluation Criteria referenced above or otherwise considered;
 - any component of a Proposal may be used for the evaluation of more than one Substantive Evaluation Criterion;
 - plans, procedures and approaches specifically tailored to the Proposer's plans for the FBO, including appropriate touch-points, reviews and collaborative efforts with Airport stakeholders, and any reference to prior experience that is expressly shown as relevant to a particular element of the Proposal, may be evaluated favorably; and
 - generalized commitments or general procedures not expressly customized to the particular elements and approach for the FBO at the Airport might not be evaluated as favorably.

18. Selection and Post-Selection Process

18.1. Selection and Announcement of Preferred Proposer

- Subject to the Reserved Rights, MAA intends to, but is not required to, identify a Preferred Proposer following the conclusion of the evaluation process described in the

foregoing Section 17. The Preferred Proposer will be the Proposer that submitted the Proposal that provided the best value to the Authority. The Proposal that provides the best value is the Proposal that is awarded the most points by the Evaluation Committee pursuant to Section 17.

- b. MAA will (in one or more notices) notify Proposers and the public of the results of the evaluations, (with the notice officially naming the Preferred Proposer being the “Notice of Intent to Award”).

18.2. Finalization of the FBO Services Agreement for Execution

- a. Under the terms of the Proposal Letter, the contract between the Authority and the Operator will follow the format specified by the Authority and contain the terms and conditions set forth in the form of FBO Services Agreement.
- b. MAA reserves the right to negotiate provisions in addition to those contained in this RFP with the Preferred Proposer, including Option Terms that the Proposer included in its Proposal. Options Terms must be submitted as an annotated mark-up of the form of FBO Services Agreement and included as Annex A to the Proposal Letter.
- c. Negotiations (if any) will be limited to those issues or provisions identified by the Proposer as Option Terms. MAA may, in its discretion, terminate such negotiations at any time by providing notice to the Preferred Proposer that it has been unable to reach agreement to enter into the FBO Services Agreement on terms acceptable to the Authority, at which time MAA shall have no further obligations to the Proposer.
- d. The Preferred Proposer will be deemed to have failed to engage in good faith negotiations with the Authority if the Preferred Proposer:
 - i. fails to attend or actively participate in reasonably scheduled negotiation meetings with MAA;
 - ii. fails to timely submit deliverables as required by the RFP or MAA in the course of negotiations; or
 - iii. insists upon terms or conditions for any documents to be negotiated or provided by the Proposer hereunder that are inconsistent with the FBO Services Agreement as issued in the RFP (including inclusion of assumptions, qualifications, conditions, pricing basis or exceptions in the FBO Services Agreement beyond those that expressly exist in the RFP as of the last Addenda to the RFP), except to the extent such terms or conditions were specifically identified by the Proposer as Option Terms in its Proposal.

18.3. Execution of the FBO Services Agreement

- a. Within 30 Days of the Notice of Intent to Award, or such longer period in the Authority’s discretion, the Preferred Proposer is required to submit to MAA:

- i. evidence of all necessary company or partnership action by Preferred Proposer to authorize the execution, delivery, and performance of the FBO Services Agreement;
 - ii. evidence as to the authority, power, and capacity of the individuals executing the FBO Services Agreement on behalf of the Proposer;
 - iii. subject to the Authority having previously provided to the Preferred Proposer execution copies of the same, or otherwise arranged with the Preferred Proposer for the production of the same, the FBO Services Agreement, duly executed by the Proposer;
 - iv. notice of the name and address of Proposer's agent for service of legal process, if any, and Proposer's Federal Internal Revenue Service employer identification number;
 - v. all documents required to be provided to evidence insurance coverages pursuant to Section 6.2; and
 - vi. all documents required to be delivered by the FBO Services Agreement concurrently with or prior to execution of the FBO Services Agreement in accordance with its terms;
 - vii. in each case in compliance with, and not inconsistent with, the requirements and terms of the RFP.
- b. If the Preferred Proposer fails to comply with Section 18.3.a, the Authority may, subject to the exercise of any Reserved Rights:
- i. draw on the Preferred Proposer's Bid Guarantee in its entirety; and
 - ii. revoke the Notice of Intent to Award as the Preferred Proposer and issue a new Notice of Intent to Award to the Proposer that submitted the next highest scored Proposal relative to the Preferred Proposer previously identified in the revoked Notice of Intent to Award.

PART VI: RESERVED RIGHTS AND ADDITIONAL PROCUREMENT RULES

19. Reserved Rights

19.1. Waiver

By requesting and participating in any debriefing session, a Proposer will be deemed to have waived any right to use any information provided by MAA in good faith during such a debriefing against MAA or its representatives in any way whatsoever, including in any protest or legal action.

19.2. MAA's Reserved Rights

- a. In connection with the procurement described in this RFP, MAA reserves to itself any and all of the rights set out in this Section 19 and any other rights available to it under Applicable Law (any of which rights will be exercisable by MAA in its sole discretion,

with or without cause, and with or without notice), the “Reserved Rights.” The rights referred to in the preceding sentence include the right to:

- i. modify the procurement process described in this RFP (including as previously modified in accordance with this Section 19) to address:
 - A. Applicable Law;
 - B. the best interests of MAA; and/or
 - C. any concerns, conditions or requirements of any other State or federal department or agency;
- b. in reviewing and/or evaluating Proposals:
 - i. terminate evaluation of Proposals received at any time;
 - ii. appoint evaluation committees to review Proposals and make recommendations, and seek the assistance of outside technical, financial, legal and other experts and consultants;
 - iii. waive deficiencies, nonconformities, irregularities, and apparent clerical mistakes in a Proposal, accept and review a Proposal that it could otherwise have determined to have failed the Pass/Fail Evaluation Criteria or permit clarifications or additional information to be submitted with respect to a Proposal;
 - iv. make independent calculations with respect to numbers and calculations submitted in a Proposal for purposes of its evaluation;
 - v. require confirmation of information submitted by a Proposer, require additional information from a Proposer concerning its Proposal or require additional evidence of qualifications to perform the work described in this RFP;
 - vi. seek or obtain data from any source that has the potential to improve MAA’s understanding and evaluation of a Proposal; and/or
 - vii. if (x) only one Proposal is received; (y) only one Proposal satisfies all Pass/Fail Evaluation Criteria; or (z) only one Proposal provisionally receives a sufficiently high numerical score following review and scoring of the Substantive Evaluation Criteria to result in being selected as the Preferred Proposer, then MAA may take such steps as appear to be appropriate to it under the circumstances, including:
 - A. modifying any element of this RFP;
 - B. seeking additional or updated Proposals, information or clarifications from other Proposers; or
 - C. terminating this procurement;
- c. in otherwise conducting the procurement process under this RFP:

- i. modify any and all dates set in this RFP;
 - ii. add or delete Proposer responsibilities from the information contained in this RFP;
 - iii. reject any and all submissions, responses, and Proposals received at any time;
 - iv. not select any Proposer as a Preferred Proposer;
 - v. add as a Preferred Proposer any Proposer that submitted a Proposal in order to replace a previously Preferred Proposer that withdraws or is disqualified from participation in this procurement;
 - vi. engage in negotiations with the Preferred Proposer;
 - vii. suspend and terminate negotiations at any time;
 - viii. elect not to commence negotiations; and/or
 - ix. disqualify any Proposer or any Preferred Proposer from the procurement process that changes its submission after the Proposal Submission Deadline without MAA's approval or for violating any rules or requirements of the procurement specified in this RFP, any other communication from MAA, or Applicable Law;
- d. procure the Services and Work, including any portion thereof, in any manner that it deems necessary, including the right to:
 - i. modify the scope, structure, schedule and/or specific terms of, or cancel, this RFP, in whole or in part, at any time prior to the execution by MAA of an FBO Services Agreement, without incurring any cost obligations or liabilities;
 - ii. modify the scope of the Services and Work during the procurement process;
 - iii. issue Addenda, supplements, and modifications to this RFP;
 - iv. issue a new request for qualifications or request for proposals after cancellation of this RFP;
 - v. not issue an RFP;
 - vi. elect not to commence or negotiations with the then Preferred Proposer or any other Proposer, and/or suspend or terminate negotiations at any time;
- e. if MAA is unable to negotiate a contract to its satisfaction with the Preferred Proposer, to:
 - i. negotiate with the next highest-ranked Proposer;
 - ii. seek amended, revised or supplemented Proposals from any or all Proposers;
 - iii. terminate the procurement;
 - iv. pursue the development of the Services and Work through a procurement or contracting approach not expressly anticipated by this RFP; and/or

- v. exercise such other rights under State law as it deems appropriate;
- f. exercise any other right reserved or afforded to MAA under this RFP or Applicable Law; and/or
- g. exercise its discretion in relation to the matters that are the subject of this RFP as it considers necessary or expedient in the light of all circumstances prevailing at the time which MAA considers to be relevant.

19.3. No Commitment

This RFP does not commit or bind MAA to enter into a contract, to proceed with the procurement described in this RFP, or to take any other definite course of action. MAA does not assume any obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP or any subsequent RFP and all such costs will be borne solely by each Proposer.

20. Protests

20.1. Applicability and Process

This Section 20 sets forth the sole and exclusive protest remedies available with respect to this RFP. Only Proposers who submit a responsive Proposal are permitted to file protests regarding the RFP process in accordance with this Section 20. Any such protests will be delivered to the Procurement Contact no later than 5:00 p.m. Central Standard Time on the fifth Day after the Notice of Intent to Award is electronically posted on the Procurement Website. The protest may be filed by mail, hand delivery, email, or facsimile. Any Proposer submitting such a protest is responsible for obtaining proof of delivery.

20.2. Required Early Communication for Certain Protests

Protests may be filed only after Proposer has informally discussed the nature and basis of the protest with MAA, following the procedures prescribed in this Section 20. Informal discussions will be initiated by a written request to the Procurement Contact. The Authority will meet with the Proposer as soon as practicable to discuss the nature of the allegations.

20.3. Content of Protest

Any protest must include the following information to be considered complete and delivered by the deadline specified in Section 20.1 above: the full legal name and address of Proposer that is/are making the protest; a succinct statement of the grounds, legal authority and factual basis for such protest; and all documentation required to establish the merits of the protest.

20.4. Decision on the Protest

- a. The protestor has the burden of proving its protest by clear and convincing evidence. The Authority may discuss the protest with the protestor and other Proposers. No

hearing will be held on the protest. The protest will be decided on the basis of written submissions.

- b. The Executive Director of the Airport may issue a written decision regarding the protest within 30 Days after the filing of the detailed statement of protest. The written decision will be final and non-appealable.

20.5. Payment of Costs Related to Protests

If a protest is denied, the Proposer filing the protest will be liable for MAA's costs reasonably incurred to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by MAA as a consequence of the protest.

20.6. Rights and Obligations of Proposer

Each Proposer, by submitting its Proposal, expressly recognizes and agrees to the limitation on its rights to protest provided in this Section 20, and expressly waives all other rights and remedies that may be available to the Proposer under Applicable Law. These provisions are included in this RFP expressly in consideration for such waiver and agreement by Proposers. If a Proposer disregards, disputes, or does not follow the exclusive protest remedies provided in this Section 20, it will indemnify, defend and hold MAA and its directors, officers, employees, agents, and consultants harmless from and against all liabilities, fees, and costs, including legal, expert, and consultant expenses, fees, and costs, and damages incurred or suffered as a result of such Proposer's actions. Each Proposer, by submitting a Proposal, will be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.

21. Debriefings

21.1. Availability of Debriefings

All Proposers submitting Proposals will be notified in writing of the results of the evaluation process. Proposers that are not the Preferred Proposer may request a debriefing within ten (10) Days of the public announcement of the Preferred Proposer or, in the event a protest is filed prior to this date, upon the resolution of such protest, whichever is later. Debriefings will be provided at MAA's earliest feasible time after the public announcement of the Preferred Proposer. The debriefing will be conducted by a procurement official familiar with the rationale for the decision.

21.2. Content of Debriefings

- a. Debriefings will:
 - i. be limited to discussion of the unsuccessful Proposer's Proposal and may not include specific discussion of a competing Proposal nor disclose or discuss any confidential information relating to any other Proposer or its Proposal;
 - ii. be factual and consistent with the evaluation of the unsuccessful Proposer's Proposal; and



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- iii. provide information on areas in which the unsuccessful Proposer's Proposal had strengths, weaknesses, or deficiencies.
- b. Debriefings will not include discussion or dissemination of the thoughts, notes, or rankings of individual evaluators.



PART VII: ATTACHMENTS

Attachment 1A:	Definitions and Abbreviations
Attachment 1B:	Rules of Interpretation
Attachment 2:	Federal Requirements
Attachment 3:	Minimum Standards
Attachment 4A:	East Ramp Tract Description and Indicative Site Plan
Attachment 4B:	West Ramp Tract Description and Existing FBO Layout
Attachment 5:	Form of FBO Services Agreement
Attachment 6:	Reference Information Documents Log



Attachment 1A – Definitions and Abbreviations

Except as otherwise specified herein, or as the context may otherwise require, the capitalized terms and acronyms used in this Agreement have the respective meanings set out in this Attachment 1A:

“Addenda” and “Addendum”	mean any supplemental written additions, deletions, and modifications to the provisions of this RFP as described in Section 7.4.
“Additional Services”	has the meaning given to it in Section 4.1.3.a.
“Agreement”	means the agreement appended hereto as Attachment 5.
“Airport”	means the Montgomery Regional Airport.
“AL Airport P3 Law”	means Al. Code § 4-3-47, as amended from time to time.
“Applicable Law”	means any: (a) statute, law (including common law), code, regulation, ordinance or rule; (b) binding judgment, judicial or administrative order or decree; (c) written directive, guideline, policy requirement, methodology, or other governmental restriction or requirement (including those resulting from an initiative or referendum process, but excluding those by MAA within the scope of its administration of this RFP); and (d) similar form of decision of or determination by, or any written interpretation or administration of any of the foregoing by, any governmental authority, in each case that is applicable to or has an impact on the Services and Work.
“Authority”	means the Montgomery Airport Authority.
“Base Annual Fee”	has the meaning given to it in Section 4.5.2.b.
“Base Scope”	has the meaning given to it in Section 4.1.1.d.
“Bid Guarantee”	means the bid guarantee required to be submitted in accordance with Section 6.3.1.
“Budgeted Operating Costs”	has the meaning given to it in Section 4.5.2.
“Business Days”	means any day other than a Saturday, Sunday, or legal holiday.
“Capital Improvement	has the meaning given to it in Section 4.4.1.

Projects”

“Capital Investment and Fixed Improvements Plan”	has the meaning given to it in Section 14.5.
“Capital Work”	has the meaning given to it in Section 4.4.1.
“Commencement Date”	has the meaning given to it in Section 4.1.2.c.
“Competitive Proposal”	means a procurement process whereby a technical proposal is solicited that explains how the Proposer will meet the objectives of the RFP and a cost element that identifies the costs to accomplish the technical proposal.
“Consulting Fee”	has the meaning given to it in Section 4.5.1.b.
“Consulting Price”	has the meaning given to it in Section 4.5.1.a.
“Cost, Fee, and Financial Investment Proposal”	has the meaning given to it in Section 15.2.
“Day” or “day”	means a calendar day, unless otherwise specified.
“DBE”	means Disadvantaged Business Enterprise.
“Effective Date”	means the date on which the FBO Services Agreement is executed.
“Evaluation Committee”	means a committee appointed by the Authority to review and evaluate responses to this RFP.
“East Ramp”	means the land, buildings, structures, facilities, fixtures, and improvements located on the part of the Airport located within the area described in Attachment 4A.
“East Ramp Expiration Date”	has the meaning given to it in Section 2.4.c.
“FAA”	means the Federal Aviation Administration.
“FBO”	means fixed-based operator.
“FBO Services Agreement”	means the agreement appended hereto as Attachment 5.
“FBO Site”	has the meaning given to it in Section 5.1.a.



“Final RFP Comment Deadline”	has the meaning given to it in the Procurement Schedule.
“Final Site Visit”	has the meaning given to it in Section 8.2.a.
“Fuel Farm Site”	means those areas and facilities within the West Ramp set forth in Attachment 4B.
“Grant Assurances	means the provisions within a Federal grant agreement to which the recipient of Federal airport development assistance has agreed to comply in consideration of the assistance provided, as required by 49 U.S.C. § 47107 and other Applicable Law.
“Incentive Fee”	has the meaning given to it in Section 4.5.2.b.
“Incumbent FBO”	means Montgomery Aviation Corporation.
“Initial RFP Comment Deadline”	has the meaning given to it in the Procurement Schedule.
“Joint Venture”	means a consortium, partnership, joint venture, or any other unincorporated grouping acting together for a common purpose and, each individual member or partner of such Joint Venture.
“Key Personnel”	means the individuals identified in the Proposal to fill certain key positions in the performance of the Services and Work as set out in the RFP and any permitted replacement personnel filling such jobs from time to time.
“Lease Agreement”	has the meaning given to it in Section 2.4.a.
“Leased Premises”	means, collectively, the East Ramp and the West Ramp.
“Legacy Maintenance Obligations”	has the meaning given to it in Section 3.2.b.
“Legacy Optional Operations”	has the meaning given to it in Section 3.1.c.
“Legacy Required Operations”	has the meaning given to it in Section 3.1.b.
“MAA”	means the Montgomery Aviation Authority.
“Management Fee”	has the meaning given to it in Section 4.5.2.a.



“Management Services”	has the meaning given to it in Section 4.3.
“MGM”	means the Montgomery Regional Airport.
“MGM FBO RFP”	means this Request for Proposals, which includes any Forms and Attachments appended hereto, the FBO Services Agreement, and any Addenda.
“Minimum Standards”	means the standards set out in Attachment 3.
“Notice of Intent to Award”	means a notice from MAA to the Proposers indicating the selection of a Preferred Proposer as set forth in Section 18.1.b.
“NTP”	means notice to proceed.
“Official Representative”	means the contact for a Proposer with respect to this procurement as set out in Section 7.1.d.
“Operating Year”	has the meaning given to it in Section 4.1.2.a
“Operations Period”	has the meaning given to it in Section 4.1.2.c.
“Operator”	means the counterparty to the FBO Services Agreement.
“Option Terms”	has the meaning given to it in Section 4.1.3.b.
“Optional Capital Investment”	has the meaning given to it in Section 4.1.3.a.
“Optional Scope”	has the meaning given to it in Section 4.1.3.a
“Optional Scope Pricing Elements”	has the meaning given to it in Section 4.5.4.a.
“Pass/Fail Evaluation Criteria”	means the evaluation criteria set forth in Section 17.1.1.
“Person”	means any of a natural person, a corporation, a limited liability company, a trust, a partnership, a limited liability partnership, a joint stock company, a consortium, a joint venture, an unincorporated association or any other entity recognized as having legal personality under the laws of the State, in each case as the context may require.



“Pre-Operations Milestones”	has the meaning given to it in Section 4.2.b.
“Pre-Operations Period”	has the meaning given to it in Section 4.1.2.b.
“Preferred Proposer”	means the Proposer that is selected by MAA to enter into the FBO Services Agreement following the evaluation of all Proposals submitted by Proposers in response to this RFP.
“Procurement Contact”	means the individual identified in Section 7.1.a.
“Procurement Schedule”	means the indicative schedule set forth in Section 1.3.
“Procurement Website”	has the meaning given to it in Section 7.2.a.i.
“Proposal”	means the submission by a Proposer in response to the requirements set forth in this RFP.
“Proposal Letter”	means the letter attached to this RFP as Form 1.
“Proposal Submission Deadline”	has the meaning given to it in the Procurement Schedule.
“Proposal Validity Period”	means, with respect to each Proposal, the period commencing at the Proposal Submission Deadline and ending on (and including) the earliest of: (a) 180 Days after the Proposal Submission Deadline; (b) the date on which MAA informs the Proposer that submitted such Proposal by written notice that its Proposal is no longer under consideration by MAA; (c) the date on which MAA executes the FBO Services Agreement to be entered into with the Preferred Proposer; and (d) the date on which MAA publicly announces the cancellation of the procurement process described in this RFP.
“Proposer”	means a qualified entity who submits a Proposal in response to this RFP.
“Public Access Inspections”	means inspections of areas that are physically and legally accessible to members of the general public, to the extent such inspections: (a) would be functionally distinguishable from the lawful activities of most other users of such areas; and/or (b) would require the use of non-intrusive equipment.



“Public Records Exempt Materials”	means materials that are not subject to disclosure pursuant to the Public Records Law.
“Public Records Law”	has the meaning given to it in Section 16.1.2.
“Public Website”	has the meaning given to it in Section 7.2.a.ii.
“Redacted Proposal”	means a version of the Proposal that redacts or otherwise removes all Public Records Exempt Materials.
“Reference Information Document”	has the meaning given to it in Section 7.2.a.
“Required Improvements”	has the meaning given to it in Section 4.4.1.
“Reserved Rights”	has the meaning given to it in Section 19.2.a.
“Restricted Access Inspections”	means inspections of such areas are not physically and/or legally accessible to members of the general public.
“RFP”	means this Request for Proposals, which includes any Forms and Attachments appended hereto, the FBO Services Agreement, and any Addenda.
“RFP Comments”	means written comments, questions, and/or requests for clarification relating to the RFP, including any Addenda, submitted to the Procurement Contact at any time prior to the applicable deadline for RFP Comments.
“Rules and Regulations”	means the rules and regulations of MGM.
“Preferred Proposer”	means the Proposer that is selected by MAA to enter into the FBO Services Agreement following the evaluation of all Proposals submitted by Proposers in response to the RFP.
“Services and Work”	has the meaning given to it in Section 4.1.1.
“Site Visit and Pre-Proposal Conference”	means the mandatory meeting and site tour described in Section 8.1.
“State”	means the State of Alabama.
“Substantive Evaluation Criteria”	means the evaluation criteria set forth in Section 17.1.2.
“Supplemental Due Diligence	means Restricted Access Inspections and/or Public Access Inspections.



Activities”

“Supplemental Due Diligence Request” means a request to conduct Supplemental Due Diligence Activities submitted in accordance with the terms of this RFP.

“Term” has the meaning given to it in Section 4.1.2.a.

“Transition Consulting Services” has the meaning given to it in Section 4.2.a.

“WBE” means Women-owned Business Enterprise.

“West Ramp” means the land, buildings, structures, facilities, fixtures, and improvements located on the part of the Airport located with the area described in Attachment 4B.

“West Ramp Expiration Date” has the meaning given to it in Section 2.4.c.

Attachment 1B – Rules of Interpretation

For purposes of this RFP, the rules of interpretation are set out as follows in this Attachment 1B:

1. INTERPRETATION OF CERTAIN REFERENCES, PHRASES, AND COMMON TERMS

Except as otherwise expressly provided in this RFP:

- (a) **References to MAA:** Any reference in this RFP to MAA refers to the Board of Directors of MAA, acting by and through MAA's directors, officers, employees, and other authorized agents or representatives of each.
- (b) **Headings and Other Internal References:** Headings are inserted for convenience only and will not affect interpretation of this RFP. Except as otherwise expressly provided in this RFP, a reference to any Section, Part, Form, or Attachment within this RFP is a reference to such Section or Part of, or Form or Attachment appended to, this RFP.
- (c) **Authority Discretion:** Any reference in this RFP to MAA having the right to exercise its "discretion" means MAA having the right to exercise its sole and absolute discretion in regard to a particular decision or action, including the ability to refrain from taking any action and the ability (where appropriate) to impose any conditions in the exercise of such discretion.
- (d) **Ambiguities:** Any ambiguity in any Proposal, as a result of omission, error, or lack of clarity within this RFP, shall be interpreted in the light most favorable to the Authority.
- (e) **Number and Gender:** Terms defined in the singular have the corresponding plural meaning when used in the plural and vice versa, and words in one gender must be deemed as references made without specificity as to gender.
- (f) **Times:** All times in this RFP are for local Central Time in Montgomery, AL.
- (g) **Common Terms:** When there are references to general words followed by a list, or a reference to a list, to make it clear that those general words "include" the matters set out in that list, then the contents of the list will not, and will not be deemed to, limit the generality of those general words. The singular includes the plural and vice versa. The word "promptly" means as soon as reasonably practicable in light of then-prevailing circumstances.

2. PROFESSIONAL LANGUAGE AND TERMS OF ART

Except as otherwise expressly provided in this RFP:

- (a) words and phrases not otherwise defined herein that have well-known technical or applicable industry meanings will be construed pursuant to such recognized meanings; and those words or phrases of an accounting or financial nature will be construed pursuant to Generally Accepted Accounting Principles in the United States as in effect from time to time, in each case taking into account the context in which such words and phrases are used; and



- (b) all statements of or references to dollar amounts or money in this RFP, including references to "\$" and "dollars", are to the lawful currency of the United States of America.

3. REFERENCES TO AGREEMENTS, DOCUMENTS AND LAWS

Except as otherwise expressly provided in this RFP, any reference:

- (a) to an agreement or other document will be construed to be a reference to such agreement or other document (including any schedules, annexes or exhibits thereto) as it may be amended, modified, or supplemented from time to time in accordance with its terms; and
- (b) to any law will be construed as a reference to such law, enactment, order, regulation or instrument as amended, replaced, consolidated or re-enacted from time to time.

Attachment 2 – Federal Requirements

The Services and Work under the FBO Services Agreement shall comply with, and the Operator shall perform its obligations and (where relevant) will require each subcontractor to perform their respective obligations under the FBO Services Agreement, the other contract documents, and the subcontracts in accordance with the following requirements in Part A (*Required Federal Provisions*) of this Attachment 2.

Part A: Required Federal Provisions

- I. **Compliance with Nondiscrimination Provisions.** During the performance of the Agreement, OPERATOR, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “OPERATOR”) agrees as follows:
 - A. **Compliance with Regulations:** OPERATOR 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 Agreement.
 - B. **Non-discrimination:** OPERATOR, with regard to the work performed by it during the term of this 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 contractors, including procurements of materials and leases of equipment. OPERATOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
 - C. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by OPERATOR for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by OPERATOR of OPERATOR’s obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
 - D. **Information and Reports:** OPERATOR will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of OPERATOR is in the exclusive possession of another who fails or refuses to furnish the information, OPERATOR will so certify to AUTHORITY or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
 - E. **Sanctions for Noncompliance:** In the event of OPERATOR’s noncompliance with the Non-discrimination provisions of this contract, AUTHORITY will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to withholding payments to the OPERATOR under the Agreement until the

OPERATOR complies, and/or cancelling, terminating, or suspending the Agreement, in whole or in part.

- F. **Incorporation of Provisions:** OPERATOR will include the provisions of paragraphs one through six of this Exhibit B, Section (A) in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. OPERATOR will take action with respect to any contract or procurement as AUTHORITY or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if OPERATOR becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, OPERATOR may request AUTHORITY to enter into any litigation to protect the interests of AUTHORITY. In addition, OPERATOR may request the United States to enter into the litigation to protect the interests of the United States.
- II. **Real Property Acquired or Improved Under the Airport Improvement Program.** OPERATOR for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, OPERATOR will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- III. **Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.** OPERATOR for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that OPERATOR will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.
- IV. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, OPERATOR, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:
- A. 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);
 - B. 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);
 - C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
 - E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
 - F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
 - G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 - H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
 - I. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
 - J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
 - K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
 - L. 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).
- V. **General Civil Rights Provision.** In all its activities within the scope of its airport program, the PERMITEE 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 identity)~~, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.
- VI. **Right of Re-entry.** In the event of breach of any of the above Nondiscrimination covenants, AUTHORITY will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

- VII. **Subcontracts.** OPERATOR agrees that it shall insert the above six provisions (Section (I) through Section (VI)) in any agreement by which OPERATOR grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under the Agreement.
- VIII. **Solicitation Notices**
- A. **Title VI Solicitation Notice.** The Authority, 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, Proposers 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.
- B. **Title VI Assurances.** All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of Title VI of the Civil Rights Act of 1964, as amended, (Title VI), with the same force and effect as if given in full text.
- C. **Labor and Prevailing Wages.** All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 40 USC §§ 3141-3144, 3146, and 3147, the Davis-Bacon Act (Davis Bacon), with the same force and effect as if given in full text. Davis Bacon ensures that laborers and mechanics employed under contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the U.S. Department of Labor.
- D. **Additional Labor Provisions.** All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers. The Operator will have full responsibility to monitor compliance to the referenced statute or regulation. The Operator will be required to address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour.
- E. **Prohibition Against Lobbying.** All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 31 USC § 1352, the Byrd Anti-Lobbying Amendment, with the same force and effect as if given in full text.



Release of ~~August 26~~October 7, 2025

Attachment 3 – Minimum Standards

[Separately provided on the Procurement Website.]



Attachment 4A – East Ramp Tract Description and Indicative Site Plan

East Ramp Tract Description

ALL THAT TRACT OR PARCEL OF LAND LYING SOUTH OF U.S. HIGHWAY 80, IN THE NORTHWEST QUARTER AND IN THE SOUTHWEST QUARTER OF SECTION 5, T-15-N, R-17-E, MONTGOMERY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

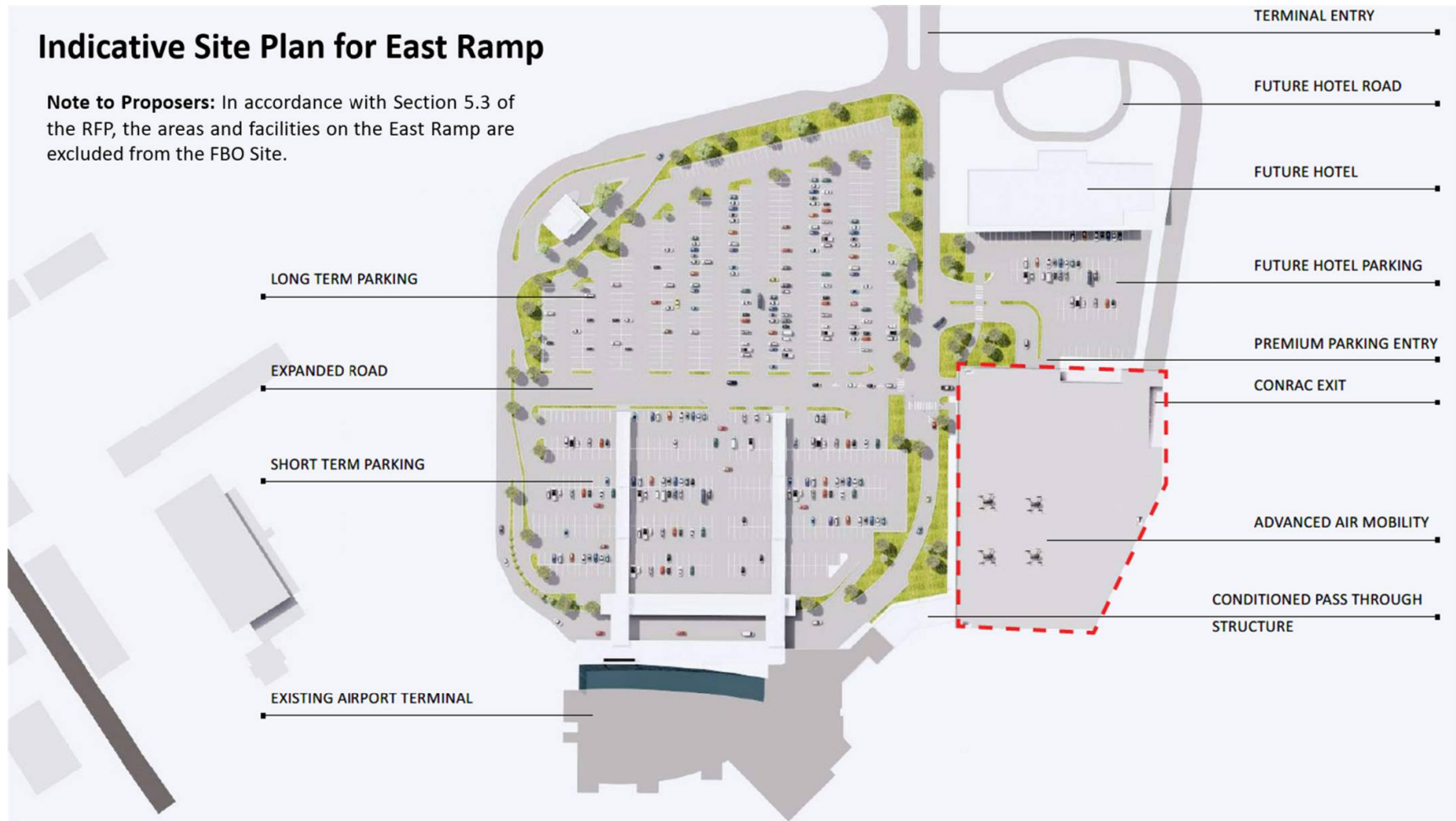
COMMENCE AT A FOUND PK NAIL LYING AT THE END OF EXISTING RUNWAY 3-21; THENCE RUN N 73°47'00" W, 417.60 FEET TO A POINT LYING ON THE EAST LINE OF AN EXISTING CONCRETE APRON, SAID POINT BEING THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING, RUN N 32°34'00" W, 83.50 FEET TO A POINT; THENCE RUN N 69°52'00" W, 91.81 FEET TO A POINT OF INTERSECTION WITH AN EXISTING FENCE; THENCE RUN ALONG SAID FENCE LINE, N 06°33'30" E, 243.89 FEET TO AN EXISTING FENCE CORNER; THENCE RUN ALONG SAID FENCE LINE N 56°42'17" W, 40.40 FEET TO A POINT LYING ON THE BACK OF AN EXISTING CURB; THENCE RUN N 33°23'14" E, 184.98 FEET TO A POINT; THENCE RUN ALONG THE EDGE OF EXISTING ASPHALT PAVING, N 56°18'47" W, 35.18 FEET TO A POINT; THENCE RUN N 58°12'31" W, 42.51 FEET TO A POINT; THENCE RUN N 62°05'31" W, 32.00 FEET TO A POINT; THENCE RUN N 51°59'46" W, 40.68 FEET TO A POINT OF INTERSECTION WITH AN EXISTING FENCE CORNER; THENCE RUN ALONG SAID FENCE LINE, N 30°29'08" E, 87.39 FEET TO A POINT; THENCE RUN N 32°39'12" E, 139.32 FEET TO AN EXISTING FENCE CORNER; THENCE RUN N 14°26'45" E, 34.77 FEET TO AN EXISTING FENCE CORNER; THENCE RUN N 32°54'14" E, 196.41 FEET TO A POINT; THENCE RUN S 56°52'00" E, 481.46 FEET TO A POINT; THENCE RUN S 33°08'00" W, 872.76 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED TRACT OR PARCEL OF LAND CONTAINS 7.376 ACRES, MORE OR LESS (BEING 321,294 SQUARE FEET, MORE OR LESS), INCLUDING ALL EASEMENTS.

Indicative Site Plan for East Ramp

Indicative Site Plan for East Ramp

Note to Proposers: In accordance with Section 5.3 of the RFP, the areas and facilities on the East Ramp are excluded from the FBO Site.





Attachment 4B – West Ramp Tract Description and Existing FBO Layout

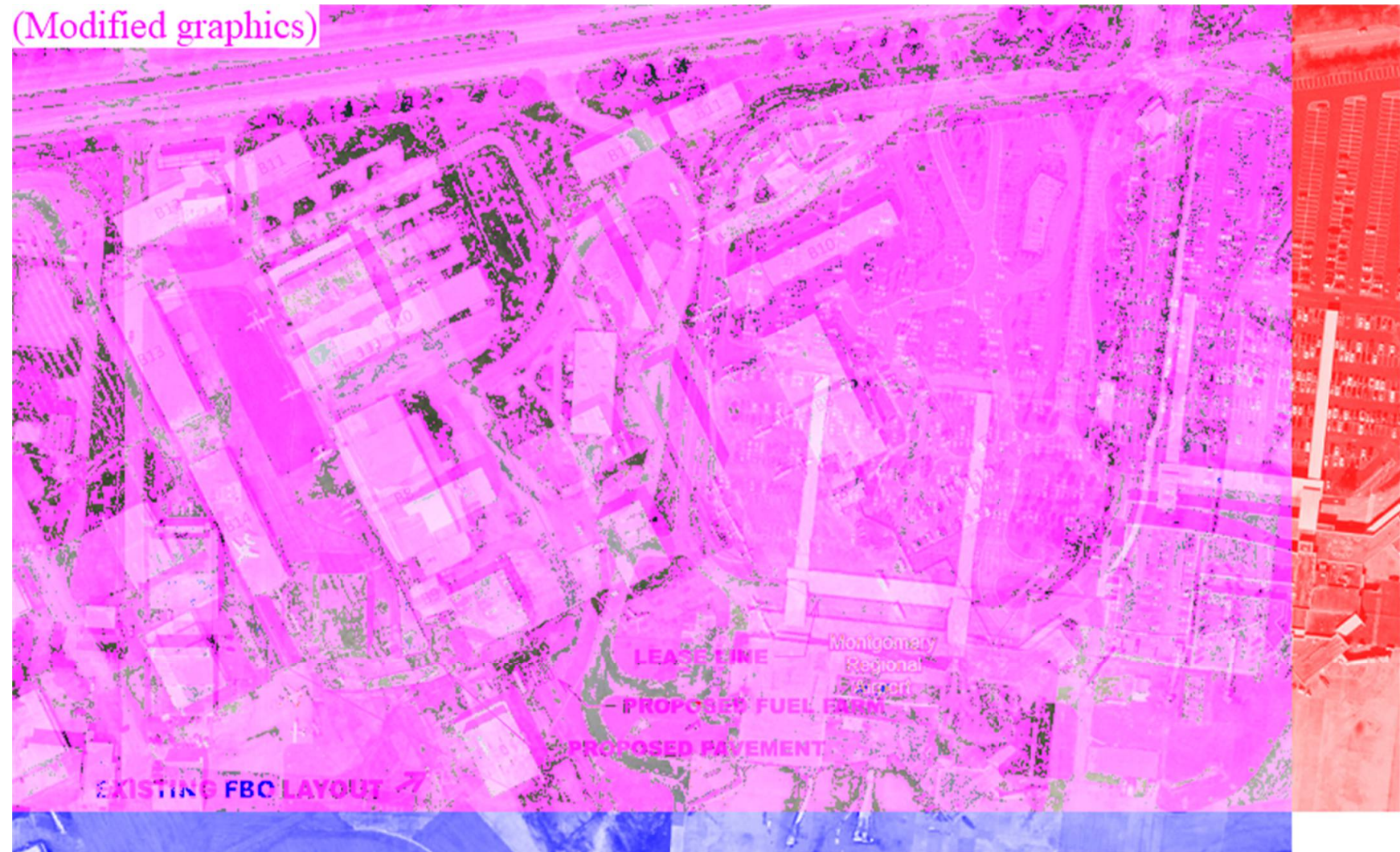
West Ramp Tract Description

ALL THAT TRACT OR PARCEL OF LAND LYING SOUTH OF U.S. HIGHWAY 80, IN THE SOUTHWEST QUARTER OF SECTION 5 AND IN THE SOUTHEAST QUARTER OF SECTION 6, T-15-N, R-17-E, MONTGOMERY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND IRON CRIMP TOP IRON PIN LYING AT THE INTERSECTION OF THE NORTI-LEAST CORNER OF LOT 1, ACCORDING TO THE MAP OF UNITED FOOD AND FUEL STATION 5, AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF MONTGOMERY COUNTY, ALABAMA, IN PLAT BOOK 54 AT PAGE 61 WITH TILE SOUTH RIGHT OF WAY OF U.S. HIGHWAY 80 (SELMA HIGHWAY -ROW VARIES); THENCE RUN ALONG SAID SOUTH RIGHT OF WAY, N 82°24'05" E, 456.44 FEET TO A POINT LYING AT AN EXISTING FENCE CORNER; THENCE LEAVE SAID SOUTH RIGHT OF WAY AND RUN S 26°54'45" E, 106.82 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING, RUN N 63°40'54" E, 215.61 FEET TO A POINT; THENCE RUN S 25°48'44" E, 19.13 FEET TO A POINT; THENCE RUN N 65°21'01" E, 167.25 FEET TO A POINT OF INTERSECTION WITH AN EXISTING FENCE LINE; THENCE RUN ALONG SAID FENCE LINE, N 81°30'21" E, 75.80 FEET TO A POINT; THENCE RUN N 82°13'40" E, 109.94 FEET TO AN EXISTING FENCE CORNER; THENCE CONTINUE ALONG SAID FENCE LINE, S 20°51'24" E, 258.31 FEET TO A FENCE CORNER; THENCE RUN S 04°36'28" E, 93.84 FEET TO A FENCE CORNER; THENCE RUN S 54°47'54" W, 63.87 FEET TO A POINT AT A FENCE CORNER; THENCE LEAVE SAID FENCE LINE AND RUN S 24°09'25" E, 85.46 FEET TO A POINT OF INTERSECTION WITH THE BACK OF AN EXISTING CURB; THENCE RUN S 72°57'38" E, 16.14 FEET TO A POINT; THENCE RUN S 17°34'21" W, 19.50 FEET TO A POINT; THENCE RUN S 26°30'39" E, 204.29 FEET TO A POINT; THENCE RUN N 63°45'58" E, 73.28 FEET TO A POINT; THENCE RUN S 07°21'49" E, 75.05 FEET TO A POINT; THENCE RUNS 15°46'03" W, 113.33 FEET TO A POINT; THENCE RUNS 29°57'12" W, 220.37 FEET TO A POINT; THENCE RUN N 74°59'55" W, 12.33 FEET TO A POINT; THENCE RUN N 61°46'27" W, 365.66 FEET TO A POINT OF INTERSECTION WITH AN EXISTING FENCE CORNER; THENCE RUN ALONG SAID FENCE LINE, N 26°37'27" W, 723.95 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED TRACT OR PARCEL OF LAND CONTAINS 10.061 ACRES, MORE OR LESS (BEING 438,266 SQUARE FEET, MORE OR LESS, INCLUDING ALL EASEMENTS.

Existing FBO Layout on West Ramp





[Release of October 7, 2025](#)

[Fuel Farm Site](#)

(Added graphics)





Release of ~~August 26~~October 7, 2025

Attachment 5 – Form of FBO Services Agreement

[Separately provided on the Procurement Website.]



Attachment 6 – Reference Information Document Log

REFERENCE INFORMATION DOCUMENT LOG

The following Reference Information Documents have been separately provided via the Procurement Website:

- (1) Technical Memorandum for 2023 Terminal Area Forecast
- (2) Terminal Area Forecast – Data Summary Report
- (3) Airport Layout Plan Update
- (4) Q4 2022 Facility Condition Assessment Report
- (5) MGM Pavement Management Plan Implementation Report (Finalized October 2024)



PART VIII: FORMS

Form 1:	Proposal Letter
Form 2:	Required Certifications and Affidavits
Form 2 – Part A:	Company Information Form
Form 2 – Part B:	Conflict of Interest Statement
Form 2 – Part C:	Non-Collusion Affidavit
Form 2 – Part D:	Debarment and Suspension Certification
Form 2 – Part E:	Statement of Insurance Providers
Form 3:	Information Regarding Industry Experience
Form 4:	Cost, Fee, and Financial Investment Proposal
Form 5:	Supplemental Due Diligence Request Form
Form CMT:	RFP Comment Submission Form



Form 1 – Proposal Letter

Instructions

Please generally see Section 13.1 of the RFP. In addition:

- (1) The Proposal Letter must be signed by the Official Representative of the Proposer.
- (2) All signature blocks on this form may be modified to properly reflect the authority of the person signing.
- (4) For any Proposer that is a Joint Venture, the Proposal Letter must be counter-signed by an Official Representative of each by each joint venture member or partner.
- (5) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form.

Proposer Team Name: []

Proposer Address: []

Date: []

VIA PROCUREMENT WEBSITE AND POSTAL MAIL

Montgomery Airport Authority
Attn: Loyd Jenkins
Interim Executive Director
4445 Selma Highway
Montgomery, AL 36108

Re: Proposal Submission in connection with the RFP for the Management, Operation, and Development of the FBO at Montgomery Regional Airport

The undersigned (the “Proposer”) submits this Proposal (this “Proposal”) in response to the Request for Proposals issued by the Montgomery Aviation Authority for the Management, Operation, and Development of the FBO at Montgomery Regional Airport (as amended, the “RFP”). Capitalized terms not otherwise defined in this letter have the meanings given to them in the RFP. References to Sections herein are references to Sections of the RFP.

Enclosures

Enclosed, and by this reference incorporated and made a part of this Proposal, are Volume 1, Volume 2, Volume 3, and Volume 4 of the Proposal, as required to be submitted in accordance with the RFP. This letter itself constitutes the Proposal Letter in Volume 1 of the Proposal.

Acknowledgement of Receipt of Addenda

The Proposer acknowledges receipt of all Addenda to the RFP, as follows:

- Addendum No. 1 released August 26, 2025; and
- ~~{list all Addenda numbers and dates}~~ Addendum No. 2 released October 10, 2025.

Assurances

The Proposer represents and warrants:

- (a) it has read the RFP and agrees to abide by the contents and terms of the RFP and the statements and commitments in its Proposal. Furthermore, the Proposer agrees that the Authority will not be responsible for any errors, omissions, inaccuracies, or incomplete statements in the RFP;
- (b) this Proposal is submitted without reservations, qualifications, assumptions, deviations, or conditions, except in the case of Option Terms to the extent expressly permitted by the RFP;
- (c) this Proposal Letter is submitted in a form identical to Form 1, other than with respect to modifications permitted or required by the use of such form;
- (d) the Key Personnel proposed by the Proposer will be available to perform the required scope of services and work under the FBO Services Agreement and will not be substituted or reassigned without the Authority's prior written approval; and
- (e) prior to the date hereof, the Proposer has previously notified the Authority of (i) any deficiencies or inconsistencies in or omissions from the RFP and the Reference Information Documents, and (ii) any material risks affecting the Proposer's ability to successfully perform the services and work as contemplated in the RFP, of which it became aware and which were not otherwise recognized, acknowledged, or addressed by the Authority in the RFP or the Reference Information Documents.

The Proposer acknowledges and agrees:

- (a) to the terms and conditions of the RFP and that, in accordance with the foregoing and by submission of this Proposal, it is deemed to certify compliance with all conditions for submission of a Proposal under the terms of the RFP, including without limitation: in-person attendance at the Site Visit and Pre-Proposal Conference;
- (b) to appear at and participate in any interview, meeting, or presentation for which an invitation is extended in accordance with the terms of the RFP;
- (c) that it received or has access to, and understands and has considered all Addenda, specifically listed in this Proposal Letter, together with those sets of RFP Comments and published responses, if any, through the Proposal Submission Deadline;
- (d) that it has received or had access to, and understands and has considered all Reference Information Documents;
- (e) that the contents of the RFP provide it with sufficient information relating to performance of the FBO Services Agreement for purposes of preparing and submitting this Proposal;
- (f) that the Authority's acceptance of the delivery of this Proposal does not, and will not be deemed to, constitute any statement or determination as to its completeness, responsiveness, or compliance with the requirements of the RFP;



- (g) to the Authority's disclosure of RFP materials consistent with the legal requirements of the Public Records Law per Section 16.1 of the RFP, and expressly waives any right to contest such disclosures;
- (h) that all costs and expenses incurred by the Proposer in preparing this Proposal and participating in this procurement will be borne solely by the Proposer;
- (i) that the Authority is not bound to select any Proposer and may reject each Proposal that it may receive; and
- (j) that under the terms of the RFP, the Authority has reserved to itself a number of rights related to the procurement, including the reserved rights set forth in Section 19 of the RFP.

Official Representative

For purposes of any future communications, the Proposer's Official Representative (who, under the terms of the RFP, will be the single point of contact for the Proposer unless the communication is a notice) and its contact information are as follows:

Name:	[]
Title:	[]
Employer:	[]
Address:	[]
Phone (office):	[]
Phone (mobile):	[]
Email:	[]
Fax:	[]

Post-Selection Process Assurances

The Proposer agrees to comply with Section 18 of the RFP and to execute and deliver the FBO Services Agreement in the form of the last version provided by the Authority to the Proposer prior to the Proposal Submission Deadline, which form of FBO Services Agreement is expressly incorporated as a part of the this Proposal. Furthermore, to the extent that there is any negotiation of the terms of the FBO Services Agreement with the Authority as provided for in the RFP, Proposer agrees to negotiate (x) in good faith and (B) in compliance with the requirements of the RFP.

Governing Law

This letter and the Proposal shall be governed by and construed in all respects according to the laws of the State of Alabama.

[Signature Page Follows]



Under penalty of perjury, I hereby:

- (a) certify on behalf of the Proposer that the representations, certifications, statements, disclosures, authorizations and commitments made, and information contained, in the SOQ in respect of the Proposer have been authorized by such entity, and is or are correct, complete and not materially misleading; and
- (b) swear and affirm that I am authorized to act on behalf of Proposer in signing and delivering this letter and acknowledge that the Authority is relying on my representation to this effect.

Proposer: _____

Name of Official Representative: _____

Signature of Official
Representative: _____

Date: _____

NOTICE TO SIGNATORIES

A material false statement, omission or fraudulent inducement made in connection with this letter is sufficient cause for disapproval of the firm's participation in the procurement. In addition, such false submission may subject the person or entity making the false statement to criminal charges. (Title 18 U.S.C. § 1001, false statements).



Form 2 – Required Disclosures and Certifications

- PART A:** COMPANY INFORMATION FORM
PART B: CONFLICT OF INTEREST STATEMENT
PART C: NON-COLLUSION AFFIDAVIT
PART D: DEBARMENT AND SUSPENSION CERTIFICATION
PART E: STATEMENT OF INSURANCE PROVIDERS
PART F: CLAIMS HISTORY QUESTIONNAIRE
PART G: CERTIFICATION REGARDING LOBBYING
-

Form 2 - Part A: Company Information Form

Instructions

- (1) Proposers must complete all Parts of this Form 2, including this Part A.
- (2) Proposers should include all requested attachments to this Form 2 – Part A.
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

COMPANY INFORMATION FORM

A. ROLE ON PROPOSER TEAM	
1. Name of Entity Completing This Form:	[]
2. Is entity a joint venture member of the entity in Section 1 above?	☐ Yes ☐ No
B. LEGAL INFORMATION	
1. Type of Entity:	☐ Corporation ☐ Limited Liability Company ☐ Partnership ☐ Joint Venture ☐ Other: <i>[If Other, provide explanation]</i>
2. Name of Officials/Constituent Firms:	<i>[if a corporation, provide name and address of each corporate officer and all stockholders owning more than 5% of the corporation stock]</i> <i>[if entity other than a corporation, name and address of each partner, member, and/or constituent firm who own more than 5% interest]</i>

	<i>in the entity]</i>
3. If the entity is an unincorporated joint venture, is the J.V. "joint and several":	☐ Yes ³ ☐ No
4. Year Established:	[]
5. Jurisdiction Where Entity Formed or Incorporated:	<i>[if United States, provide state]</i> <i>[if other than United States, provide country]</i>
6. Federal Tax ID No.:	[]
7. North American Industry Classification Code:	[]
8. Successor in Interest to Entity/Entities (if any, within past five years):	[]
9. Additional Legal Names of Entity: <i>(if applicable, list any DBA names, trade or abbreviated names, or different Federal Tax IDs under which the entity has previously operated along with the status of such name (active or inactive))</i>	[]
10. Business address:	[]
11. Headquarters address:	[]
12. Location(s) of office performing work:	[]
13. Firm's relevant licenses, registrations and credentials:	[]
14. Organizational Documents and Evidence of Right to Do Business in Alabama Attached: <i>(Attach copies of the organizational documents and, if available, evidence of the entity's right to conduct business in the State.)</i>	
☐ Yes	☐ No: <i>[if No, provide explanation]</i>

³ **Note to Proposers:** If Proposer is expected to be a Joint Venture, and the obligations of the members and partners of such Joint Venture will not be joint and several, then such Proposer must clearly and specifically identify and explain the anticipated structuring of member and partner liabilities for such Joint Venture in its Proposal. Proposers should note, however, that the Authority may, in its discretion, based upon its review of a Proposal, require all members or partners to assume joint and several liability as a condition precedent to a Proposer being identified as a Preferred Proposer and entering into a FBO Services Agreement.



Form 2 - Part B: Conflict of Interest Statement

Instructions

- (1) Proposers must complete all Parts of this Form 2, including this Part B. For any Proposer that is a Joint Venture, this Form must be completed by each joint venture member or partner.
- (2) If no conflicts of interest exist, Proposer should enter, "Not Applicable," in the "Narrative of Organizational Conflicts of Interest" section.
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

CONFLICT OF INTEREST STATEMENT

I, the undersigned, am an authorized representative of [*Proposer Company Name*] and this statement is submitted in accordance with the Request for Proposals issued by the Montgomery Aviation Authority for the Management, Operation, and Development of the FBO at Montgomery Regional Airport (as amended, the "RFP"). Capitalized terms that are used below but not defined in this statement have the meaning given them in the RFP.

I hereby certify on behalf of [*Proposer Company Name*] that no actual, perceived, or potential conflict of interests exist as it relates to the procurement contemplated in the RFP, except as disclosed below in this statement.

NARRATIVE OF ORGANIZATIONAL CONFLICT OF INTEREST (if any)

Proposer: _____

Name of Official Representative: _____

Signature of Official
Representative: _____

Date: _____



Form 2 - Part C: Non-Collusion Affidavit

Instructions

- (1) Proposers must complete all Parts of this Form 2, including this Part C.
- (2) For any Proposer that is a Joint Venture, this Form must be completed by each joint venture member or partner.
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

NON-COLLUSION AFFIDAVIT

I, the undersigned, am an Official Representative of [*Proposer Company Name*] (the “firm”) and this affidavit is submitted in accordance with the Request for Proposals issued by the Montgomery Aviation Authority for the Management, Operation, and Development of the FBO at Montgomery Regional Airport (as amended, the “RFP”). Capitalized terms that are used below but not defined herein have the meaning given them in the RFP.

The undersigned, attests that:

- (a) the Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, joint venture, limited liability company, or corporation;
- (b) the Proposal is genuine and is not a collusive or sham Proposal;
- (c) the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone will refrain from proposing;
- (d) the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the prices of Proposer or any other Proposer, or to fix any overhead, profit, or cost element included in the Proposal, or of that of any other Proposer, or to secure any advantage against MAA or anyone interested in the proposed agreement;
- (e) all statements contained in the Proposal are true and, further, Proposer has not, directly or indirectly, submitted its prices or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, joint venture, limited liability company, organization, Proposal depository, or any member, partner, joint venture member, or agent thereof to effectuate a collusive or sham Proposal;
- (f) The Proposer will not, directly or indirectly, divulge information or data regarding the price or other terms of its Proposal to any other Proposer, or seek to obtain information or data regarding the price or other terms of any other Proposal, until after award of the FBO Services Agreement or rejection of all Proposals and cancellation of the RFP; and



- (g) I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval, or submission of my firm's Proposal in connection with the RFP and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this affidavit.

The undersigned under the penalties of perjury, affirms the truth hereof.

Proposer: _____

Name of Official Representative: _____

Signature **of** **Official**
Representative: _____

Date: _____



Form 2 - Part D: Debarment and Suspension Certification

Instructions

- (1) Proposers must complete all Parts of this Form 2, including this Part D. For any Proposer that is a Joint Venture, this Form must be completed by each joint venture member or partner.
- (2) Proposers should include all requested attachments to this Form 2.
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

DEBARMENT AND SUSPENSION CERTIFICATION

I, the undersigned, am an authorized representative of [*Proposer Company Name*] and this certification is submitted in accordance with the Request for Proposals issued by the Montgomery Aviation Authority for the Management, Operation, and Development of the FBO at Montgomery Regional Airport (as amended, the "RFP"). Capitalized terms that are used below but not defined herein have the meaning given them in the RFP.

The undersigned certifies to the best of its knowledge and belief, that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from the transactions contemplated in the RFP;
- (b) have not within a 3-year period preceding this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph b. of this certification; and
- (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

Where Proposer is unable to certify to any of the statements in this certification, it will attach a certification to its Proposal stating that it is unable to provide the certification and explaining the reasons for such inability.

Proposer: _____

Name of Official Representative: _____

Signature **of** **Official** _____



Release of ~~August 26~~October 7, 2025

Representative:

Date: _____



Form 2 - Part E: Statement of Insurance Provider(s)

Instructions

Please generally see Section 6.2 of the RFP. In addition:

- (1) Proposers must complete all Parts of this Form 2, including this Part E.
- (2) Proposers should include all requested attachments to this Form 2.
- (3) Proposers may duplicate the insurer contact information table if additional insurers need to be included on this form.
- (4) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

STATEMENT OF INSURANCE PROVIDER(S)

I, the undersigned, am an authorized representative of [*Proposer Company Name*], and this statement is submitted in accordance with the Request for Proposals issued by the Montgomery Aviation Authority for the Management, Operation, and Development of the FBO at Montgomery Regional Airport (as amended, the "RFP"). Capitalized terms that are used below but not defined herein have the meaning given them in the RFP.

Attached are letter(s) and/or certificate(s) from insurance provider(s) for [*Proposer Company Name*] certifying that [*Proposer Company Name*] has insurance in accordance with the terms set forth in the RFP. Below is the contact information for each insurance provider(s) providing such letter(s) and/or certificate(s).

Insurer Contact Information	
Insurer:	
Company Name:	
Company Address:	
Contact Name and Phone:	

Proposer: _____

Name of Official Representative: _____



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Signature **of** **Official**
Representative: _____

Date: _____

Form 2 - Part F: Claims History Questionnaire

Instructions

Please generally see Section 6.2 of the RFP. In addition:

- (1) Proposers must complete all Parts of this Form 2, including all tables in this Part F.
- (2) This Form shall be completed with respect to the Proposer and all Key Personnel.
- (3) If an entity has no record of the relevant claims history in any table in this form or if the requested information in any table in this form is not available, enter a declaratory statement to that effect.
- (4) Insert additional rows to any table below, if needed.
- (5) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

CLAIMS HISTORY QUESTIONNAIRE

Proposer Name: []

Date: []

TABLE 1: LITIGATION, CLAIMS, DISPUTE PROCEEDINGS, AND ARBITRATION

NAME OF ENTITY

Project Name + Owner/Agency/Entity that initiated the action	Brief Description of Action	Resolution of Action (please note if the action is outstanding)	Current Owner: Contact Name + Phone/ Email
--	-----------------------------	--	--

TABLE 2: ASSESSMENT OF LIQUIDATED DAMAGES FOR DEFICIENT PERFORMANCE

NAME OF ENTITY

Project Name	Triggering Event for Liquidated Damages	Amount Assessed (\$US)	Brief Description of Damage Claims by Owner + Resolution	Current Owner: Contact Name + Phone/Email
--------------	---	------------------------------	--	---



TABLE 4: TERMINATION FOR CAUSE AND DEFAULTS FOR DEFICIENT PERFORMANCE				
NAME OF ENTITY		MENT. SUSPENSION AND OTHER ACTIONS/PROCEEDINGS		
Project Name	Amount Assessed (\$US)	Brief Description of Administrative Action + Resolution		Current Owner: Contact Name + Phone/Email
Project Name		Brief Description of Action + Resolution		Contact Name + Phone/Email



Form 2 - Part G: Certification Regarding Lobbying

Instructions

- (1) Proposers must complete all Parts of this Form 2, including this Part G.
- (2) For any Proposer that is a Joint Venture, this Form must be completed by each joint venture member or partner.
- (3) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 2.

CERTIFICATION REGARDING LOBBYING

I, the undersigned, am an authorized representative of [*Proposer Company Name*] and this certification is submitted in accordance with the Request for Proposals issued by the Montgomery Aviation Authority for the Management, Operation, and Development of the FBO at Montgomery Regional Airport (as amended, the "RFP"). Capitalized terms that are used below but not defined herein have the meaning given them in the RFP. The undersigned certifies, to the best of their knowledge and belief that it complies with 31 USC §1352, as amended and all other applicable federal and State lobbying restrictions and specifically that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.



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Proposer: _____

Name of Official Representative: _____

Signature **of** **Official**
 Representative: _____

Date: _____

Form 3 – Information Regarding Industry Experience

Instructions

- (1) Proposers must complete this Form 3 in accordance with Section 14.3.
- (2) Duplicate this form as necessary so as to include all requested industry experience.
- (3) Bracketed and italic text in the “Response” column constitutes additional guidance for completing this Form, which should be deleted when completing the Form.
- (4) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 3.

INFORMATION REGARDING INDUSTRY EXPERIENCE

Proposer Name: []

Date: []

No.	Required Information	Response
<u>I. Background Information</u>		
(1)	Type of Project/Program:	<i>[e.g. airport operations and management]</i>
(2)	Type of Facility:	
(3)	Owner/Procuring Authority/Location:	
(4)	Description of Scope of Services and Work:	
(5)	Contract Term:	<i>[State both total term length and start and end dates for the contract]</i>
(6)	Current Status:	
<u>II. Description of Proposer Involvement</u>		
(7)	Proposer Team Member(s) Involved:	<i>[Including whether the entity was involved in all or just some phases or aspects of the project/program.]</i>
(8)	Key Personnel Involved, Roles and Responsibilities:	
<u>III. Technical Information</u>		
(9)	Relevance to Proposer’s Conceptual Approach:	<i>[Brief description of how the identified projects/program demonstrates key elements of the Proposer’s anticipated conceptual approach.]</i>
<u>IV. Reference</u>		
(10)	Name:	
(11)	Title and Employer (current):	
(12)	Title and Employer (at time of project/transaction):	
(13)	Role on the project:	



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(14)	Relationship to project owner:	
(15)	Phone and Email:	
(16)	Location and Time Zone:	
(17)	Other:	

**Form 4 – Cost, Fee, and Financial Investment Proposal****Instructions**

Please generally see Section 15.2 of the RFP. In addition:

- (1) Proposers must complete Part A of this Form in accordance with Section 4.5.1.
- (2) Proposers must complete Part B of this Form in accordance with Section 4.5.2.
- (3) Proposers must complete Part C of this Form in accordance with Section 4.5.3.
- (4) Proposers must complete Part D of this Form in accordance with Section 4.5.4.
- (5) Proposers may use the “COMMENTS” column to provide a cross reference to parts of their Proposals that include relevant details.
- (6) Proposers may add additional rows in each of Part of this Form as needed to describe additional payments in accordance with the RFP.
- (7) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form.

COST, FEE, AND FINANCIAL INVESTMENT PROPOSAL

Proposer Name: []

Date: []

ITEM NO.	DESCRIPTION	ITEM TOTAL	COMMENTS
Part A:	Payment for Transition Consulting Services		
1.1	Consulting Fee (flat fee)	\$ [] .00	
1.2	Consulting Fee (hourly rate)	\$ [] .00	
Total Consulting Price		\$ [] .00	

Part B:	Payment for Management Services and Budgeted Operating Costs		COMMENTS
2.1	Base Annual Fee for Operating Year 1	\$ [] .00	
2.2	Base Annual Fee for Operating Year 2	\$ [] .00	
2.3	Base Annual Fee for Operating Year 3	\$ [] .00	

ITEM NO.	DESCRIPTION	ITEM TOTAL	COMMENTS
2.4	Base Annual Fee for Operating Year 4	\$ [] .00	
2.5	Base Annual Fee for Operating Year 5	\$ [] .00	
2.6	Incentive Fee	[] %	
2.7	Budgeted Operating Cost for Operating Year 1	\$ [] .00	
2.8	Budgeted Operating Cost for Operating Year 2	\$ [] .00	
2.9	Budgeted Operating Cost for Operating Year 3	\$ [] .00	
2.10	Budgeted Operating Cost for Operating Year 4	\$ [] .00	
2.11	Budgeted Operating Cost for Operating Year 5	\$ [] .00	
Total Management Fee + Budgeted Operating Costs for initial five (5) Operating Years		\$ [] .00	

Part C:	Investments Related to Capital Work		
3.1	Minimum Investment in Required Improvements	\$ [] .00	
3.2	Minimum Investment in Capital Improvement Projects	\$ [] .00	
Total Proposed Capital Investment		\$ [] .00	

Part D:	Pricing for Optional Scope and Option Terms		
4.1	Pricing for Additional Services (hourly rate)	\$ [] .00	
4.2	Amount of Optional Capital Investments	\$ [] .00	
4.3	Fuel Flowage Fee	\$ [] .00	
4.4	Collection of MAA-imposed Fees	[] %	
4.5	Minimum Facilities Rent	\$ [] .00	
4.6	Minimum Ground Rent	\$ [] .00	
4.7	Minimum Annual Guarantee	\$ [] .00	
4.8	Minimum Annual Escalation Amounts	[] %	
4.9	Additional Optional Scope Pricing Elements	\$ [] .00	



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Form 5 – Supplemental Due Diligence Request Form

Instructions

- (1) Proposers must complete this Form 5 in accordance with Section 8.2.
- (2) Proposer should submit a separate Supplemental Due Diligence Request for each Supplemental Due Diligence Activity.
- (3) Bracketed and italic text in the “Description” column constitutes additional guidance for completing this Form, which should be deleted when completing the Form.
- (4) Proposers should delete this instructions box and additional instruction notes prior to submitting this Form 5.

MGM FBO RFP: Supplemental Due Diligence No. []⁴

Proposer Name: []

Date: []

No.	Required Information	Description
(1)	Type of Request	☐ Restricted Access Inspection ☐ Public Access Inspection
(2)	Overview	<i>[Provide description.]</i>
(3)	Method(s) of Inspection/Investigation	<i>[Provide description.]</i>
(4)	Location(s) and Approximate Duration of Activity	<i>[Provide description.]</i>
(5)	Identity and Qualifications of Participants (if applicable/known)	<i>[Provide description.]</i>
(6)	Permit(s)/Approval(s) Required	<i>[Provide description.]</i>
(7)	Potential Benefits to the Procurement	<i>[Provide description.]</i>

⁴ **Note to Proposers:** sequentially number each Supplemental Due Diligence Request.



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Form CMT – RFP Comment Submission Form

Instructions

Please generally see Section 7.3 of the RFP. In addition:

- (1) Proposers shall submit RFP Comments in Microsoft® Word or compatible format.
- (2) RFP Comments should be ordered sequentially and organized by reference to the order in which they appear in the RFP.
- (3) Proposers should consider relevance, brevity and clarity when submitting RFP Comments. As such:
 - (a) each comment should address a single issue (i.e. multiple issues, unless substantively related, should not aggregated into a single comment);
 - (b) any single comment that complies with instruction (3)(a) above may include list numbering to facilitate review and response (bulleted list should not be used); and
 - (c) each comment should indicate why it has been made (or, as applicable, repeated).
- (4) RFP Comments should not identify the Proposer (or any member of such Proposer's team) in the body of the question.
- (5) Proposers should delete this instructions box and additional instruction notes prior to submitting any RFP Comments using this form.



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RFP COMMENT SUBMISSION FORM

RFP Comment Submission No. []⁵

Proposer Name: []

Date: []

NO.	REFERENCE (e.g. RFP section, Attachment, Form, FBO Service Agreement section, etc.)	RFP COMMENT	For Authority Use Only
	Click here to enter text.	Click here to enter text.	
	Click here to enter text.	Click here to enter text.	
	Click here to enter text.	Click here to enter text.	
	Click here to enter text.	Click here to enter text.	
	Click here to enter text.	Click here to enter text.	
	Click here to enter text.	Click here to enter text.	

⁵ **Note to Proposers:** Sequentially number each set of the RFP Comments submitted.



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FBO SERVICES MANAGEMENT AGREEMENT

by and between

MONTGOMERY AIRPORT AUTHORITY

and

[OPERATOR ENTITY NAME]

EFFECTIVE AS OF 12:01 A.M. ON _____, 2026



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FBO Services Agreement

Exhibit E: Environmental Documentation

Exhibit F: Insurance Requirements

Exhibit G: Minimum Standards

Exhibit H: Required Federal Provisions



This **FBO SERVICES MANAGEMENT AGREEMENT**, as amended from time to time in accordance with its terms (the **"Agreement"**), is made and entered into as of this [] day of [], 2026 (the **"Effective Date"**) by and between:

- the Montgomery Airport Authority, (the **"Authority"** or **"MAA"**), a public corporation and airport authority, organized and validly existing pursuant to the provisions of Chapter 3 of Title 4 of the Code of Alabama (Code of Ala. §§4-3-1 to 4-3-80); and
- [], a [] organized under the laws of [], having its principal offices at [], (the **"Operator"**) (collectively, the **"Parties"** and each a **"Party"**), with reference to the following facts:

RECITALS

WHEREAS, the Authority owns and, acting by order of and through its Board of Directors (the **"Board"**), operates the Montgomery Regional Airport (the **"Airport"** or **"MGM"**) pursuant to the provisions of Chapter 4 of Title 4 of the Code of Alabama as amended (Code of Ala. §§4-4-1 to 4-4-16) and is the ~~sponsor~~ Sponsor of the Airport under federal law;

WHEREAS, the Authority wishes to engage a qualified and experienced general aviation services provider to undertake the management, operation, and development of the general aviation and fixed based operator (FBO) facilities (each an **"FBO Facility"**) in the area identified in Exhibit A hereto (the **"FBO Site"**);

WHEREAS, on June 2, 2025, in order to identify a general aviation services provider with the requisite knowledge and expertise to undertake the services and work necessary to manage, operate, and develop the FBO Facilities (such undertakings as more fully described in the Operator Scope of Work, the **"Services and Work"**), the Authority issued a request for proposals (as amended, the **"RFP"**) inviting qualified firms to submit proposals to undertake the Services and Work;

WHEREAS, pursuant to the process set forth in the RFP, the Authority selected the Operator as its **"Preferred Proposer"** by determining that the Operator's proposal (attached as Exhibit B, the **"Proposal"**) best met the selection criteria contained in the RFP, and on such basis, the Authority authorized award of this Agreement to the Operator;

WHEREAS, the Operator has represented to the Authority that it is authorized, capable, and qualified to undertake the Services and Work at ~~Montgomery Regional~~ the Airport on the FBO Site and the Authority wishes to engage the Operator to do so;

NOW, THEREFORE, BE IT RESOLVED, for and in consideration of the mutual covenants, representations, warranties, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:



ARTICLE 1. Foundational Matters

1.1. Defined Terms and Rules of Interpretation

- a. For the purposes of this Agreement, and except as otherwise specified herein or as the context may otherwise require the acronyms, abbreviations, and terms used in this Agreement have the respective meanings given to them in Appendix A.
- b. The Agreement will be construed in accordance with Appendix B, which contains rules governing interpretation, the giving of consents and approvals, and the resolution of conflicts among the Transaction Documents.

1.2. Effectiveness and Term

- a. The “**Term**” of this Agreement commences on the Effective Date and shall continue until the Expiry Date unless terminated earlier as provided herein. The Term will be divided into two periods:
 - i. the “**Pre-Operations Period**” beginning on the Effective Date and ending on the Day before the date of transition and handover of operations and management of the FBO Site to the Operator (such date of transition and handover, the “**Commencement Date**”); and
 - ii. the “**Operations Period**” beginning on the Commencement Date and continuing ~~for five (5) years~~ (until the 5th anniversary of the Commencement Date (such period, the “**Initial Term**”).
- b. The Initial Term will be automatically extended, at the Authority’s option in its reasonable discretion, for an additional five (5) years from the then-anticipated Expiry Date (the “**Renewal Term**”) unless the Authority provides written notice of termination to the Operator no less 90 Days before the Renewal Term is set to begin. The Initial Term will be automatically extended, without any Operator right to object, decline, or renegotiate the terms and conditions herein.

1.3. Nature of Agreement

1.3.1. Grant of Rights and ~~Nature~~Appointment of the ~~Transaction~~Operator

- a. For the duration of the Term, the Authority hereby grants to the Operator:
 - i. the obligation and right to undertake the Services and Work;
 - ii. the right and license to enter into and use the FBO Site as necessary to undertake the Services and Work; and
 - iii. a non-exclusive right and license to enter into and use other Authority-controlled areas, subject to directives issued by or on behalf of the Authority and Applicable Law, as necessary to undertake the Services and Work,(collectively, the “~~Transaction~~Appointment”).
- b. The Operator accepts the ~~Transaction~~foregoing grant of rights and acknowledges and agrees the ~~Transaction~~Appointment:
 - i. does not constitute an interest in real property, a lease to the Operator or a grant, in each case, of any right, title, or interest, including any legal or equitable ownership interest, in any part of the Airport; and



- ii. is subject to the rights of other Persons and users, and any legal or contractual restrictions or qualifications on such grants.
- c. The Operator acknowledges and agrees that, except as otherwise expressly provided in the Agreement:
 - i. any information, documents, Environmental Documentation, equipment, materials, work or work product, facility, structure, or property of any kind made available to the Operator by the Authority, is provided: (A) on an “as is”, “where is”, and “with all faults” basis without undertaking, guaranty, representation or warranty, express or implied, regarding the accuracy, completeness, relevance, fitness for purpose, or adequacy of condition of the same (or any part thereof); and (B) subject to any condition or restriction (including the rights of third parties) that may exist from time to time on the same; and
 - ii. the Operator will bear all risk, including of delay and/or increased cost, resulting from or arising out of the use of any such information, documents, Environmental Documentation, equipment, materials, work or work product, assistance, facility, structure, or property.

1.3.2. Pre-Operations Period Amendment

- a. The Parties acknowledge that certain aspects of the Capital Work may be further developed during the Pre-Operations Period and as a result amendments to this Agreement may be desired during that time. The Operator may, in its discretion, propose amendments to this Agreement to the Authority ~~concerning modifications to the Transaction~~. Any proposed amendments may be implemented through either:
 - i. any Modification Proposal submitted in accordance with ARTICLE 6 for the Authority’s consideration; or
 - ii. entry into good faith negotiations between the Parties to amend and restate this Agreement with reference to the **“Proposed Supplemental Terms”** submitted by the Operator in its Proposal in response to the RFP.
- b. The Authority agrees to negotiate in good faith with respect to any amendments proposed by the Operator pursuant to this Section 1.3.2; provided, however, that the Authorities shall be under no obligation to accept any amendments proposed by the Operator; and provided further that any failure of the Authority to accept any amendments proposed by the Operator, in whole or in part, shall not excuse the Operator’s obligation to perform the Services and Work.

1.3.3. Conditions Related to Aeronautical Operations

The Authority and the Operator agree that the Operator must operate and maintain the FBO Site and the FBO Facilities on behalf of the Authority and in accordance with all Applicable Laws and must further operate the FBO Site in compliance with all Grant Agreements. Subject to the conditions of Applicable Law, the Grant Agreements, and execution of any ~~Supplemental~~ Modification Agreement or amendment in accordance with the foregoing Section 1.3.2 with the Authority where necessary to conduct the activities contemplated, the Operator may provide commercial aeronautical services at the Airport. Any such ~~Supplemental~~ Modification Agreement or amendment must provide that Operator’s rights to conduct any commercial aeronautical services will be non-exclusive.



1.3.4. Time is of the Essence

The Parties expressly agree that time is of the essence in this Agreement. Failure by a Party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall relieve the other Party, without liability, of any obligation to accept such performance.

1.4. Representations and Warranties of the Parties

- a. Each Party represents and warrants to the other Party that each representation and warranty set out in Exhibit C is true and correct as of the Effective Date.
- b. The Parties each acknowledge that the other Party is relying on the representations and warranties made pursuant to this Section 1.4 in entering into this Agreement.
- c. No investigations made by or on behalf of any Party at any time will have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Party in this Agreement or pursuant to this Agreement. ~~No waiver by a Party of any condition, in whole or in part, will operate as a waiver of any other condition.~~
- d. Notwithstanding that the representations and warranties made by the Parties pursuant to this Section 1.4 are made and repeated only at particular times, each Party will promptly inform the other Party after it becomes aware that any of its representations and warranties either was false, misleading, or inaccurate in any material respect when made (or repeated) or omitted material information when made (or repeated).

1.5. Intended Tax Treatment and Other Tax Matters¹

1.5.1. Intended Tax Treatment

The Authority takes no position, and bear no responsibility or liability, for the Operator's elected tax treatment of any interest in the Services and Work or any Capital Project. Neither the Operator nor any other Operator Party will be treated as or deemed to be the legal, tax, or equitable owner of any facility, building, and structure on the FBO Site or on any part thereof.

1.5.2. Payment of Taxes

- a. THE OPERATOR IS SOLELY RESPONSIBLE FOR THE WITHHOLDING OR PAYMENT OF ALL APPLICABLE FEDERAL, STATE, AND LOCAL PERSONAL INCOME TAXES, SOCIAL SECURITY TAXES, UNEMPLOYMENT AND SICKNESS DISABILITY INSURANCE, AND OTHER PAYROLL TAXES WITH RESPECT TO THE OPERATOR'S EMPLOYEES. NEITHER THE OPERATOR NOR ITS SUBCONTRACTORS, OR THE EMPLOYEES OF ANY OF THEM, SHALL BE ELIGIBLE FOR ANY RETIREMENT, PENSION, OR OTHER EMPLOYMENT BENEFITS AVAILABLE TO EMPLOYEES OF THE AUTHORITY.
- b. As such, the Operator will pay or cause to be paid, prior to delinquency, all Taxes in each case in respect of the Operator's performance of the Services and Work under this Agreement, and any other Operator Party interest in any of the foregoing. The Authority will not in any case be responsible for any Taxes levied on the Operator or on any other Operator Parties. The Operator accepts sole responsibility for, and agrees that it will have no right to claim, a Relief Event or to any

¹ ~~Note to Proposers: to be updated in a subsequent Addendum.~~

other claim for relief due to, its misinterpretation of Applicable Laws in relation to Taxes or incorrect assumptions regarding applicability of Taxes.

ARTICLE 2. Scope of Services and Work

2.1. General Obligations of the Parties

At all times during the Term, without limiting any Party's other obligations under this Agreement, the Authority and the Operator will use reasonable efforts to cooperate and coordinate with each Party (and exercise reasonable endeavors to cause their respective representatives, advisors, and contractors to cooperate and coordinate with each other) to facilitate the Services and Work. The Parties will also use reasonable efforts to cooperate with all Entities Having Jurisdiction in matters relating to the Agreement, including any such entities' review, inspection, and oversight of the Services and Work ~~and the Transaction~~ as contemplated herein, in accordance with any Applicable ~~Law~~Laws granting such jurisdiction or as contemplated by any other agreement binding on each Party.

2.2. Obligations of the Operator

- a. Subject to the express terms of this Agreement, the Operator will undertake the Services and Work in accordance with:
 - i. this Agreement (including the Operator Scope of Work attached as Exhibit D);
 - ii. Applicable ~~Law~~Laws and any ~~Permits~~Authorizations;
 - iii. applicable Submittals, including all approved designs, specifications, and plans;
 - iv. the FBO Standards;
 - v. the Grant Agreements and Grant Assurances;
 - vi. any agreement binding on the Authority of which and to the extent the Operator is aware of such agreement and its relevant terms as of the Effective Date; and
 - vii. the Baseline Standard of Practice.
- b. The Operator shall be fully and generally responsible for the performance of the Services and Work, which, after taking into account the qualifications and exclusions set out in the remainder of this Section 2.2, are comprised of all of the work, services, and activities to be performed, furnished, or undertaken by the Operator under this Agreement, including:
 - i. during the Pre-Operations Period, the Transition Consulting Services~~;~~;
 - ii. during the ~~Operating~~Operations Period, the Management Services; and
 - iii. the Capital Work,

in each case as set out in the Operator Scope of Work and including all such associated administration, management, labor, materials, permitting, deliverables, work, and services as enumerated herein, together with all other ancillary, collateral, and incidental work, as reasonably required or necessary to complete the Services and Work in accordance with this Agreement, but excluding any work which is referenced as excluded or prohibited under the terms of this Agreement and any work that the Authority is expressly obligated to perform, or elects to perform, under the terms of this Agreement.



- c. The Operator will obtain, comply with, promptly renew and maintain in good standing all Authorizations necessary to comply with its obligations under this Agreement. Nothing in this Agreement will be deemed to waive or modify any Authorization required to be obtained by the Operator or any other Person in connection with the FBO Facilities or performance of the Services and Work.

2.3. Authority Rights and Responsibilities

2.3.1. Generally

- a. From and after the Effective Date, the Authority must:
- i. fully cooperate with Operator in connection with any changes necessary for utility billing and payments;
 - ii. review and approve Operator's safety and operational training plan for Operator's Employees performing the Services and Work;
 - iii. provide the Operator with access to, and training on, Authority-owned or operated software systems necessary to perform the Services and Work; and
 - iv. perform periodic safety and quality control inspections of the Airport and its physical facilities as necessary.
- b. Any other provision of this Agreement notwithstanding, the Authority retains the right to:
- i. regularly review Operator's performance of the Services and Work under this Agreement,
 - ii. review and approve any Modification Proposal by the Operator to construct any new improvements or modify any Existing Improvements at the Airport;
 - iii. execute any agreements with the United States or State government for financial assistance for the Airport; and
 - iv. impose and enforce rules, regulations, standards, and any other governance structure for the Airport.

~~2.3.2. Retained Responsibilities²~~

~~{Reserved}~~

2.3.2. ~~2.3.3.~~ Excluded Work³

- a. The provision of the Services and Work by the Operator excludes:
- i. the Retained Responsibilities; and

² ~~Note to Proposers: to be updated in a subsequent Addendum and otherwise conformed prior to execution in line with any approved Proposal terms.~~

³ ~~Note to Proposers: to be updated in a subsequent Addendum and otherwise conformed prior to execution in line with any approved Proposal terms.~~



- ii. any application for or receipt of funding or financing related to the Services and Work from a Governmental Authority or any other third party (excluding self-funding of the Services and Work by any Operator Party), which has not been approved in advance by the Authority; ~~and,~~

~~iii. [Reserved],~~

(together, the “Excluded Work”).

- b. If the Operator undertakes any efforts outside of the scope of the Services and Work under this Agreement (including any Excluded Work) absent a mutually executed Modification Agreement specifically authorizing and detailing such additional Services and Work, then the Operator will be deemed to have undertaken such efforts voluntarily, at its own risk (including risk of breach), liabilities, cost, and expense.

2.4. Licensed Equipment and Operator Equipment

2.4.1. Licensed Equipment

In coordination with the Operator, the Authority may acquire certain equipment for the Operator’s use in performance of the Services and Work (the “Licensed Equipment”). In such event, the Authority shall grant the Operator a limited license to utilize the Licensed Equipment. The Operator shall be responsible for the maintenance of the Licensed Equipment as part of the Services and Work, and shall ensure that the Licensed Equipment is maintained in accordance with manufacturer specifications. The Operator must utilize the Licensed Equipment solely for performance of the Services and Work and shall not remove the Licensed Equipment from the Airport except as needed for repairs or service. On an ongoing basis, the Operator shall keep the Authority up to date on the useful life expectancy of the Licensed Equipment and any anticipated replacements or refurbishments.

2.4.2. Operator Equipment

The Operator may acquire and utilize its own equipment in the performance of the Services and Work. The Operator shall be solely responsible for the maintenance of any equipment owned by the Operator.

2.4.3. Fate of Licensed Equipment and Operator Equipment Upon Termination

Upon termination or expiration of this Agreement, the Licensed Equipment and all other equipment owned by the Authority shall remain property of the Authority, and all equipment owned by Operator shall remain property of the Operator.

2.5. Provisions Related to the Fuel System

2.5.1. General Requirements

From and after the Commencement Date, except as otherwise specified, the Operator must:

- a. ~~The Operator must~~ regularly maintain, repair, calibrate, and inspect the Fuel System, including, without limitation, all future improvements and additions thereto, and all GSE and equipment used by the Operator, in order to keep the Fuel System: (i) in good, safe, and efficient operating condition and repair; (ii) in sanitary and sightly condition; (iii) in compliance with all Applicable Laws, including Environmental Laws; and (iv) in compliance with all directives and applicable Minimum Standards established by the Authority. Without limiting the generality of the foregoing, in accordance with Applicable Laws, the Operator must maintain detailed records of inspections of



the Fuel System that demonstrate there are no leaks in the pipelines, tanks, or vessels that are a part of the Fuel System, that the Fuel System is cathodically protected, and that any Fuel present in vaults containing vents, drains, valves, or any other subsurface features of the Fuel System must be removed on a scheduled basis to prevent release of any Fuel to the Environment;

- b. ~~The Operator must~~ comply with all security controls or measures established by the Authority for the Airport or the Fuel System, and take such measures as are reasonably required or customary in order to secure the Fuel System and to prevent tampering with the Fuel System, including, without limitation, ensuring availability of Operator personnel to process and monitor users' access to the Fuel System during the established hours of operation in the Operator Scope of Work (except that the Authority may designate additional hours in its reasonable discretion), control system, storage and distribution facilities, buildings, and equipment; provided, however, that the Operator is not required to provide guards in the normal course of business;
- c. ~~The Operator must~~ provide management and technical personnel to attend meetings related to the orderly and efficient operation of the Fuel System, including, but not limited to, meetings with the Authority, architects, engineers, contractors, agencies, and others;
- d. Subjectsubject to the approval of the Authority, ~~the Operator must~~ establish and follow procedures for receipt, handling, dispensing, and quality control of Fuel, and training and supervision of personnel working with Fuel or the Fuel System, in accordance with all Applicable Laws;
- e. ~~The Operator must~~ protect Fuel from the introduction of any substances that change the quality of the Fuel after delivery thereof to the Fuel System and take all other reasonable steps to preserve the quality of the Fuel in the Fuel System, including but not limited to ensuring that separate types of Fuel are kept separate;
- f. ~~The Operator must~~ provide the Authority with records of Fuel throughput and other statistics in sufficient detail as the Authority may reasonably request;
- g. ~~The Operator is responsible for compliance~~comply with Applicable Laws, including without limitation Environmental Laws, and ~~for the securing~~secure and ~~filing off~~file all necessary Environmental Permits for providing the Services and Work and for operation of the Fuel System on the Authority's behalf, ~~all of which~~ Environmental Permits the Operator must maintain in full force and effect at all times during Operator's operations at the Airport;
- h. ~~The Operator must assure~~ensure that (i) all Persons properly access and use the Fuel System, and (ii) established procedures and contractual obligations are met and followed;
- i. ~~If~~if requested by the Authority, ~~the Operator must~~ assist outside auditors in reasonable requests made by the auditors; and
- j. ~~The Operator must~~ perform such other functions relating to the operation and maintenance of the Fuel System as the Authority may reasonably authorize or request.

2.6. Provisions Concerning Publicity and Intellectual Property

2.6.1. Press Releases, Public Statement, and Joint Public Relations Activities

- a. The Parties may participate in press and public relations-type activities related to the undertakings contemplated under this Agreement; provided, however, that either Party shall have the right to



approve, before issuance, any press release or any other public statement with respect to the ~~Transaction~~undertakings contemplated herein made by the other Party.

- b. Notwithstanding the foregoing Section 2.6.1.a, any Party's failure to provide such explicit approval or rejection within 15 days of receipt of the other Party's request shall be deemed an approval, provided that either Party shall be entitled, without the prior approval of the other Party, to issue any press release or other public disclosure with respect to such transactions required under applicable securities regulations or other Applicable Law.

2.6.2. Licensing of Names, Logos, and Marks

- a. The Authority grants to the Operator a non-exclusive, non-transferable, royalty-free license during the Term to use the names "Montgomery Regional Airport", and "MGM" together with all existing and future developed logos and marks solely in connection with the performance of the Operator's obligations and exercise of rights pursuant to this Agreement.
- b. The Operator grants to the Authority a non-exclusive, non-transferable royalty-free license during the Term to use the all existing and future developed logos and marks of the Operator solely in connection with the performance of the Authority's obligations and exercise of rights pursuant to this Agreement.

2.6.3. Operator-Provided Intellectual Property

- a. All Proprietary Intellectual Property will remain the exclusive property of the Operator.
- b. The Operator hereby grants to (or, with respect to any Third-Party Intellectual Property, will undertake commercially reasonable efforts to provide to or obtain for) the Authority a non-exclusive, non-transferable, irrevocable, fully paid up and sub-licensable license to use the Proprietary Intellectual Property, any Third-Party Intellectual Property, and, prior to transfer of ownership to the Authority in accordance to Section 2.6.5, all Work Product for the Authority IP Rights Purposes; provided that the Authority agrees that any use of Intellectual Property or Work Product subject to such license in violation of the same by it or any of its sublicenses will be at its own risk, cost, and expense.

2.6.4. Authority-Provided Intellectual Property

The Authority may in its discretion make certain Intellectual Property available to the Operator for use in performance of the Services and Work. The Authority shall make such Intellectual Property available under a license, grant, assignment, or other arrangement, the nature, terms, and conditions of which shall be determined by the Parties, acting reasonably.

2.6.5. Work Product

- a. Subject to Sections 2.6.3, 3.1, and 3.2, all Submittals created or prepared by the Operator in the performance of the Services and Work shall be considered "**Work Product**" in which the Operator irrevocably commits to transfer to the Authority all such Work Product as "work for hire" on and from the earlier of (i) the Expiry Date, and (ii) the date of termination of this Agreement, provided that:



- i. prior to such transfer, the Operator grants to the Authority a license with respect to such Work Product in accordance with Section 2.6.3.b;
 - ii. Work Product will not at any time include, and the Authority will not obtain title to, any Operator-Provided Intellectual Property; and
 - iii. an invention or discovery made after the Effective Date through the performance of the Services and Work is excluded from Work Product, subject to, the Operator: (A) granting to the Authority a license with respect to such excluded Work Product equivalent to the license required for Proprietary Intellectual Property under Section 2.6.3.b; or (B) agreeing to share with the Authority a reasonable share of such royalties or other revenues generated by monetizing, securitizing, or licensing the rights to such invention or discovery.
- b. Upon transfer of any Work Product to the Authority, the Authority will be deemed to grant back to the Operator a limited license, for the Operator to use and reproduce applicable portions of the drawings, specifications, and other documents prepared as Work Product appropriate to and for use in the execution of the Services and Work under the Agreement.
- c. The Parties shall execute such documents and take such further actions as may be reasonably needed to give effect to the foregoing.

2.6.6. Intellectual Property Claims

The Operator shall defend, indemnify and hold harmless the Authority Indemnified Parties from and against any and all claims, actions, penalties, violations, damages, losses and expenses (including but not limited to attorneys' and experts' fees) arising out of or relating to actual or alleged intellectual property claims, license misuse, infringement claims, misuse or unauthorized use of intellectual property, trademark and/or patent violations occasioned by the activities of the Operator and/or any Subcontractor of the Operator.

ARTICLE 3. Compensation of Operator and Financial Arrangements

3.1. Payment for Transition Consulting Services⁴

The Operator will perform the Transition Consulting Services [at risk in consideration of the opportunity to undertake the Capital Work] [in exchange for the "**Total Consulting Price**" included in its Proposal in the amount of \$ _____.]

3.2. Payment for Management Services⁵

~~a.~~ In exchange for the Operator performing the Services and Work during the Term of this Agreement, the Authority agrees to pay the Operator a management fee per Operating Year ("**Management Fee**")~~),~~
¹, which Management Fee shall be:

⁴ ~~Note to Proposers: to be updated prior to execution in line with any approved Proposal terms.~~

⁵ ~~Note to Proposers: to be updated prior to execution in line with any approved Proposal terms.~~

¹ Note to Proposers: to be updated prior to execution in line with any approved Proposal terms.



- a. ~~b. For a total lump sum amount equal to \$ _____ for the first Operating Year and consistent with the initial Annual Budget, the Management Fee shall be a total lump sum amount equal to \$ _____; and~~
- b. ~~c. For~~for each subsequent Operating Year, ~~the Management Fee shall be~~ an amount equal to [the previous Operating Year's Management Fee increased by CPI or another amount if approved by the Authority through the annual budgeting process][plus the Incentive Fee].

3.3. Reimbursement for Uncontrollable Expenses

If the Operator incurs Uncontrollable Expenses during one or more Operating Years, it will promptly notify the Authority and meet with the MAA-Designated Representative as soon as reasonably possible to explore means to avoid or mitigate the amount of such Uncontrollable Expenses. The Authority shall in good faith promptly consider the circumstances causative of the Uncontrollable Expenses and to the extent the Operator reasonably establishes that such Uncontrollable Expenses were not the result of the Acts and Faults of the Operator, the MAA-Designated Representative shall conditionally authorize payment thereof pending Board Action.

3.4. Annual Budget

- a. No later than ~~{DATE}~~April 15th of each calendar year during the Term, the Operator must submit for Authority's approval a recommended Annual Budget for the subsequent Operating Year; which Annual Budget will include any Capital Requests. Within 30 Days of receipt of the Annual Budget (including any Capital Request) from the Operator, the Authority will either accept or reject the Annual Budget or propose modifications thereto.
- b. No later than ~~{DATE}~~May 31st of each calendar year during the Term, the Operator must incorporate and/or respond to any Authority comments, and provide the Authority with a final proposed annual budget. Each final annual budget is subject to Authority's final review and must be approved by the Authority's Board before it is effective.
- c. If any the occurrence of any material changes in market conditions come into effect between the date that the Annual Budget is developed and the date that it goes into effect, the Operator:
- will work together with the Authority to revise the Annual Budget and Capital Request so that they accurately reflect any changes which may have occurred after the date that the Annual Budget and Capital Request was developed; and
 - may submit a claim for relief (to the extent applicable) in accordance with ARTICLE 9.
- d. The Annual Budget and Capital Request whether or not modified will become the Final Budget no later than ~~{DATE}~~September 30th of the next Fiscal Year.

3.5. Monthly Financial Summary Reports

As soon as practical but no later than 15 Days following the end of each month during an Operating Year, the Operator shall prepare a "Financial Summary" in the form of a report, which details the prior month's financial performance in terms of ~~Gross~~Operating Revenues, Allowable Operating Expenses, Uncontrollable Expenses and Operating Surplus. The Financial Summary shall be in a format reasonably acceptable to the Authority. The Operator and the MAA-Designated Representative will discuss the



Operator's financial and operational performance as reflected in the Financial Summaries during Quarterly Reviews and the Annual Accountings as described in the following Section 3.6.

3.6. Quarterly Reviews and Annual Accounting

- a. The Operator shall measure and report its performance and the results of its operations of the FBO Facilities for each Operating Year during the Term. The Operator shall give its report on such performance, including its statement of Operating Revenues, Allowable Operating Expenses, and Operating Surplus for the periods being reported on, no less frequently than quarterly ("**Quarterly Review**") with the last such Quarterly Review after the close of each Operating Year covering the entire Operating Year (such fourth Quarterly Review of the Operating Year being referred to as the "**Annual Accounting**").
- b. During Quarterly Reviews conducted by the MAA-Designated Representative, the Operator will have the opportunity to discuss and propose amendments to the Final Budget necessitated by material fluctuations in market conditions not contemplated in the Annual Budget.

3.7. Allowable Operating Expenses and Non-Reimbursable Expenses

- a. The Operator, on behalf of the Authority, shall pay all Allowable Operating Expenses and working capital requirements pursuant to Section 3.4 hereof. "**Allowable Operating Expenses**" means those approved expenses arising from the management and operation of the FBO Facilities as further described in this Section 3.7. Allowable Operating Expenses shall be segregated into those amounts approved for automatic reimbursement by the Authority ("**Regularly Recurring Expenses**") and those amounts requiring requisition by the Operator ("**Non-Recurring Expenses**"). Both Regularly Recurring Expenses and Non-Recurring Expenses shall be identified in the Annual Budget.
- b. Unless otherwise approved as part of the Final Budget or specifically authorized in writing by the Authority, the Operator shall not be reimbursed for ~~Non-Reimbursable~~Non-Recurring Expenses of the following like and kind:
 - i. -corporate overhead and cost allocations;
 - ii. -legal fees not incurred in the course of the Operator's management and operational duties or obligations hereunder;
 - iii. -charitable and political contributions;
 - iv. -travel and entertainment except where required as a part of approved operating and marketing costs;
 - v. -corporate public relations, gifts, dues and memberships; and
 - vi. -any penalties, assessments, or fines issued by any court or authorized Governmental Authority (unless such penalties, assessments, or fines result from the direct Acts and Faults of the Authority).
- c. ~~The~~In accordance with the Operator Scope of Work, the Operator shall act as custodian of and safeguard until deposited with the Authority all cash and other receipts of the Authority. All cash losses, including cash losses arising out of the criminal acts of officers, Employees, or agents of the Operator, shall be the responsibility of the Operator.



ARTICLE 4. Operating Revenues and Accounts

4.1. Financial Procedures Manual

The Operator shall prepare and provide the Authority with a manual which sets forth the procedures for the processing of revenues and disbursements (the "**Financial Procedures Manual**"). The Financial Procedures Manual shall include internal accounting procedures and auditing controls reasonably requested by the Authority. Operating Revenues shall be deposited and receivables shall be processed in accordance with the procedures and controls contained the Financial Procedures Manual.

4.2. Operating Revenues and Airport Account

- a. As part of the Services and Work, the Operator must:
 - i. collect and remit to the Authority all payments due to the Authority through any Existing Agreement or new lease agreements on the FBO Site executed by the Authority during the Term ("**Tenant Payments**");
 - ii. collect all Authority-imposed landing fees, if any, and other aeronautical charges at the Airport as assigned by the Authority ("**Aeronautical Charges**") on the Authority's behalf and remit the Aeronautical Charges to the Authority. If for any reason Operator is not permitted to collect such Aeronautical Charges, including, without limitation, because Operator is not a Governmental Authority, then, in that event, the Authority agrees to collect such Aeronautical Charges; and
 - iii. collect and remit to the Authority the revenues on each Gallon of Fuel sold by Operator at the Airport on the Authority's behalf (the "**Fuel Revenues**").
- b. The Operator's remittance of Tenant Payments, Aeronautical Charges, and Fuel Revenues (collectively, "**Operating Revenues**") for the preceding calendar month shall be due to the Authority no later than the 20th day of each calendar month during each Operating Year. Together with the Operating Revenues, the Operator must submit a ~~detailed report~~Financial Summary of its activities for the preceding month in accordance with Section 3.5.
- c. The Operator shall use reasonable efforts to collect all Operating Revenues and applicable sales taxes and shall deposit such collections to the Airport Account.

4.3. Disbursements

- a. All disbursements made by the Authority to the Operator under this Section 4.3 shall be from the Airport Account, or from Authority Funds, if there are insufficient funds in the Airport Account.
- b. The Operator shall establish and maintain a bank account in its own name ("**Operating Account**") for the purpose of disbursing payments on behalf of the Authority for Allowable Operating Expenses.
- c. On the first day of each calendar month during each Operating Year, the Authority must disburse to the Operator:



- i. One-twelfth of the annual budgeted expense amount for operation and routine maintenance of the FBO (or another amount if the annual budget provides for different expenses in different calendar months) ("**Monthly O&M Disbursement**") to the Operating Account; plus
- ii. One-twelfth of the then-current Management Fee, directly to the Operator.

4.4. Books, Records and Accounts of Operator; Operator Certification

No later than 90 days after the end of each Fiscal Year during the Operating Period, the Operator must provide the Authority with an annual financial report on the operations of the FBO for the preceding Fiscal Year ("**Annual Financial Report**") including a reconciliation of the adopted budget for such Fiscal Year to actual revenues and expenses. Each Annual Financial Report must:

- a. be prepared by a certified public accountant or the Operator's chief financial officer (or equivalent position) in accordance with GAAP and any applicable financial reporting requirements of the FAA; and
- b. include a written certification executed the Operator's chief financial officer (or equivalent position) certifying that the reports submitted hereunder are true and accurate in all respects.

ARTICLE 5. Provisions Regarding Capital Projects

5.1. Airport Master Plan

The ~~Authority~~Airport Master Plan shall govern the development and construction of Capital Projects on the Airport. It is expressly understood and agreed that from and after the Effective Date and throughout the Term, the Operator must not engage in any construction of Capital Projects at the Airport except with the Authority's prior written consent and consistent with the Airport Master Plan and approved Annual Budget.

5.2. Process for Undertaking Capital Projects⁶

~~{Reserved}~~

5.2.1. Capital Project Approval Process

If the Operator intends to construct a Capital Project on behalf of the Authority at the Airport, in addition to compliance with Applicable Laws (including without limitation State and local building codes and zoning requirements), it must receive written approval and notice to proceed from the Authority at the following points:

- a. the initial concept stage, to ensure that such Capital Project in accordance with the then-current Airport Master Plan and can be incorporated into the Annual Budget process described in Section 3.4;
- b. the conceptual design stage, to ensure that such Capital Project complies with the Authority's standards for location, size, funding, rent structure, and proposed use; and

⁶~~Note to Proposers: to be updated in a subsequent Addendum.~~



- c. the pre-construction stage, to approve the final design, use, or rent structure of the Capital Project and to ensure compliance with any Applicable Laws, including State procurement rules.

5.2.2. Existing and Updated Plans

- a. Upon request of the Operator, the Authority will provide any existing as-built or in-process plans (as of the Commencement Date), specifications, and related materials pertaining to planned or in-progress construction. The Operator may utilize such materials at its sole risk, and the Authority shall have no liability for such use.
- b. The Operator must cooperate with the Authority in preparing any updated plans or other regulatory documents at such times as they may be required by Applicable Laws or any Governmental Authority. The Authority will file in its own name any applications and execute any documents in connection with such updated plans.

5.2.3. Other Capital Improvements

The Operator may, from time to time, engage in construction and activities other than Capital Projects so as to enhance the FBO Facilities provided that such construction and activities are approved by the Authority, either through the Annual Budget or otherwise. All such development and construction by the Operator must be reasonably calculated to enhance the FBO Facilities and the Airport, and in compliance with all Applicable Laws and the FBO Standards.

ARTICLE 6. Modifications to the Services and Work

6.1. Process for Modification Proposals

- a. Either Party may in its discretion propose a Modification by delivery of a notice to the other Party detailing such proposal (a "**Modification Proposal**").
- b. Following delivery of a Modification ~~Proposals~~ Proposal, the Parties will exchange such information and materials as each may reasonably request from the other to enable them to exercise any consent rights under this ~~Section 6.1~~ ARTICLE 6.
- c. Each Party will bear its own costs when preparing any Modification Proposal or any response to the same, including any information or materials required to be exchanged in accordance with Section 6.1.b.
- d. A Modification Proposal will be subject to the ~~acceptance~~ consent of the Party receiving such Modification Proposal, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, that, ~~no such Acceptance or other form of~~ consent will be required from the Operator ~~with respect to~~ for any Modification ~~proposed~~ directed by the Authority that is necessary to comply with any new Applicable ~~Law~~ Laws or change in Applicable ~~Law~~ Laws applicable to the Airport Facilities and Assets, the Services and Work, the Authority, or the ~~Authority's~~ Airport's operations.

6.2. Agreement Documenting Modification Proposals

- a. If the Parties agree on the terms of the Modification, they will memorialize their agreement in a written agreement (a "**Modification Agreement**") in a form to be prepared by the Operator (and



approved by the Authority in its reasonable discretion) setting out the details of such agreement; which agreement will take effect when executed by the Parties.

- b. If the Parties do not reach such an agreement and any dispute in relation to the relevant matters is resolved pursuant to the Dispute Resolution Procedure in ARTICLE 13, the Parties will execute a Modification Agreement to document such resolution, if the dispute resolution procedure herein does not result in a written record of such resolution.

ARTICLE 7. Representatives, Personnel, and Subcontracting

7.1. Party-Designated Representatives and Delegation of Authority

7.1.1. Appointment of Party-Designated Representatives

Pursuant to this Section 7.1.1, the Authority and the Operator will each identify and maintain a Person as their official representative (respectively, the “**MAA-Designated Representative**” and the “**Operator-Designated Representative**” and, together, the “**Party-Designated Representatives**” and each a “**Party-Designated Representative**”) with the functions and powers as set out in Sections 7.1.2 and 7.1.3. Provided that from time to time:

- a. the Authority and the Operator may replace their respective Party-Designated Representative; and
- b. the Authority and the Operator may each delegate all or part of their respective Party-Designated Representative’s responsibilities under this Agreement,
- c. in either case by a notice to the other Party containing:
 - i. the name, title, mailing address, principal phone numbers, and email address (or digital equivalent) of the replacement Party-Designated Representative or delegate;
 - ii. in the case of partial delegations of authority, a schedule setting out the extent to which any authority for managing any aspect of this Agreement has been delegated and to whom; and
 - iii. in the case of time-limited replacements or delegations, the start and end date for such time-limited replacement or delegation.

7.1.2. Power and Authority of the Operator-Designated Representative

Except as previously notified by the Operator to the Authority before any relevant act or instruction occurs or is given:

- a. the Authority will be entitled to assume that the Operator-Designated Representative has, and the Operator will (subject to reasonable exceptions and limitations to be notified to the Authority) ensure that the Operator-Designated Representative will have full authority to act on behalf of the Operator for all purposes of this Agreement; and
- b. subject to any exceptions or limitations previously notified to them, the Authority and the MAA-Designated Representative will be entitled to treat any act of the Operator-Designated Representative in connection with this Agreement as being expressly authorized by the Operator, and the Authority and the MAA-Designated Representative will not be required to determine whether any express authority has in fact been given.



7.1.3. Power and Authority of the MAA-Designated Representative

- a. Subject to Section 7.1.3.c and reasonable exceptions and limitations to be notified to the Operator, the Operator will be entitled to assume that the MAA-Designated Representative has, and the Authority will ensure that the MAA-Designated Representative will have full authority to act on behalf of the Authority for all purposes of this Agreement.
- b. Subject to any exceptions or limitations previously notified to them, the Operator and the Operator-Designated Representative will be entitled to treat any act of the MAA-Designated Representative in connection with this Agreement as being expressly authorized by the Authority, and the Operator and the Operator-Designated Representative will not be required to determine whether any express authority has in fact been given.
- c. The Operator acknowledges and agrees that certain Authority approvals contemplated in this Agreement may only be granted by the Board (such grant, a “**Board Action**”). Any approval (express or implied) from the MAA-Designated Representative, whether oral or written, that requires Board Action will not operate to bind the Authority.-

7.1.4. Initial Appointment of Party-Designated Representatives

For purposes of this Agreement, the initial Party-Designated Representatives², as of the Effective Date , are as follows:

with respect to the Operator, the
Operator-Designated Representative shall be:

[Name, Title]

[Affiliation/Department]

[Street Address]

[City/Town, State Zip Code]

[Phone: (xxx) xxx-xxxx]

with respect to the Authority, the MAA-Designated
Representative shall be:

[Name, Title]

[Affiliation/Department]

[Street Address]

[City/Town, State Zip Code]

[Phone: (xxx) xxx-xxxx]

7.2. Employees of Operator and Key Personnel

- a. The Operator will retain and maintain qualified, licensed, experienced and competent personnel sufficient to perform or, to the extent performed through Subcontractors, supervise and manage, the Services and Work. Furthermore, all employees and agents of the Operator, as applicable, who have access to the FBO Site and the FBO Facilities under the terms of this Agreement shall at all times remain the employees or agents of the Operator, as applicable, and/or the Operator's Affiliates and shall not at any time be deemed the agents, representatives, or employees of the Authority.
- b. Prior to the hiring of any of the Key Personnel, the Operator must provide a job description and resume of the proposed Person for the Key Personnel position to Authority for approval, which approval must not be unreasonably withheld or delayed. The Operator must reasonably consider

² Note to Proposers: to be updated prior to execution.



and respond to any comments from the Authority. If the Operator's chosen Person does not meet the objective experience and qualification requirements set forth by the Authority for the identified Key Personnel position, the Operator must promptly provide an alternative candidate that meets the objective experience and qualification requirements for the Key Personnel position.

- c. The Operator must notify the Authority of the departure of any Key Personnel from the Operator's employment or retainer. If any Person serving as Key Personnel leaves his or her employment or retainer with the Operator, the Operator must immediately undertake diligent efforts to replace such Key Personnel.
- d. Any other provision of this Agreement notwithstanding, all Key Personnel must be Employees of, or retained by, the Operator. Nothing in this Agreement shall be interpreted as creating an employer-employee or principal-agent relationship between Authority and the Key Personnel or other Employees or agents of Operator. Except as otherwise specified in this Agreement, the Authority shall not have any right or responsibility to supervise, direct, or control any Employee. When present at the Airport, Employees must not display any insignia or name other than that of the Operator (except with respect to any required Airport identification).
- e. Employees must comply with all applicable FAA rules, regulations, and guidance concerning the storage, handling, and dispensing of Fuel.
- f. The Operator must ensure that security screenings, including fingerprint-based criminal history record checks, and/or checks pursuant to Applicable Laws and best practices, for all Employees providing the Services and Work are completed prior to employment. For any contractor, agent, or other Person engaged by the Operator to provide Services upon the Fuel System, the Operator must ensure that appropriate security screenings, including fingerprint-based criminal history records checks, and/or checks pursuant to Applicable Laws and best practices are conducted prior to engagement. The Operator must exclude all potential Employees that, based on such security screenings, may present a risk to the security and safety of the Airport operations or whose performance of the Services and Work would violate Applicable Laws.

7.3. Subcontracting

The Operator may, consistent with the FBO Standards, enter into contracts and agreements with Subcontractors (which may include Affiliates of the Operator) to provide services in connection with the delivery of the Services and Work, provided that:

- a. the Operator will at all times be responsible for the selection, supervision, payment, and performance of all Subcontractors (of every tier), and for the Acts and Faults of the same;
- b. no such contract or agreement will relieve the Operator of its responsibility and liability for the performance of all of its obligations under this Agreement and compliance with all applicable Authorizations or affect the rights of the Authority to exercise any rights or remedies provided in this Agreement; and
- c. the Subcontractors (via written contract) shall be required to defend, indemnify, and hold harmless the Authority from and against all claims, losses, damages, and expenses (including but not limited to attorney's fees and expert fees) arising out of or relating to the Subcontractors acts, omissions, and/or performance of work or services for the Operator.



ARTICLE 8. Environmental Matters⁷

8.1. Environmental Documentation and Investigations

- a. The Operator acknowledges receipt from the Authority of certain Environmental Documentation pertaining to the FBO Site, which are listed ~~and attached as~~ in Exhibit E to this Agreement.
- b. The Operator has the right in its sole discretion and at its sole expense to conduct additional environmental investigations and sub-surface assessments of the FBO Site during the Term.

8.2. Pre-Existing and Third-Party Environmental Conditions

8.2.1. Non-Liability of Operator

- a. Notwithstanding anything to the contrary in this Agreement, the Operator is not liable for and has no obligation or responsibility under this Agreement, at law, or otherwise for any Pre-Existing Environmental Condition or any Third-Party Environmental Condition. The Authority hereby releases, waives, and discharges any and all claims, rights, suits, liabilities, losses, demands, actions, or causes of action, whether arising by statute, regulation, contract, common law, equity, or otherwise (excluding, however, any claims, rights, suits, liabilities, losses, demands, actions, or causes of action arising from the Acts and Faults of the Operator or any Operator Party) that it may have, now or in the future, against the Operator or any Operator Party, all to the extent arising from, connected with, or relating to any Pre-Existing Environmental Condition or Third-Party Environmental Condition.
- b. This Section 8.2.1 does not apply to the extent that Operator:
 - i. fails to promptly report to the Authority the presence of a newly discovered Third-Party Environmental Condition; or
 - ii. otherwise negligently or intentionally fails to take action with respect to a Third-Party Environmental Condition, and such action would fall within the scope of the Operator's Services and Work under this Agreement, the Operator's duties under Applicable Law, or the requirements of any insurance policy applicable to the Operator or the Authority.

8.2.2. Cleanup Coordination

In the event that the Authority or any third party undertakes any notification, investigation, monitoring, clean-up, removal, or remediation of any Pre-Existing Environmental Condition or Third-Party Environmental Condition during the Term of this Agreement, the Authority and the Operator must jointly undertake reasonable efforts to minimize any disruption to the Services and Work.

8.3. Hazardous Waste and Materials

- a. If the Operator is deemed to be a generator of hazardous waste, as defined by Applicable Law, the Operator must obtain an Environmental Protection Agency (EPA) identification number and the appropriate generator permit and must comply with all Environmental Laws imposed upon a generator of hazardous waste including, but not limited to, ensuring that the appropriate

⁷ ~~Note to Proposers: The Authority reserves the right to modify this Article based upon the specific elements of the selected Proposal.~~



transportation and disposal of such materials are conducted in full compliance with Environmental ~~Law~~ Laws.

- b. The Operator must maintain an accurate inventory list (including quantities) of all such hazardous waste, whether stored, disposed of, or recycled, available at all times for inspection by Authority officials and also by ~~and~~ Entities Having Jurisdiction over the Airport, for implementation of proper storage, handling, and disposal procedures.
- c. The Operator must promptly notify the Authority and such Entities Having Jurisdiction of all activities relating to Hazardous Materials. The Operator must provide the name of Operator's twenty-four (24)-hour emergency coordinator and his or her phone number to the Authority in case of any spill, leak, or other emergency situation involving Hazardous Materials. The Operator agrees to provide the Authority copies of all permit application materials, permits, monitoring reports, environmental response plan, and regulated materials storage and disposal plans relating to the Services and Work ~~and/or the Transaction~~.

8.4. Indemnification

The parties knowingly, even-handedly, intelligently and for valid consideration agree as follows:

- a. Subject to Section 8.2.1, and in addition to any indemnification set forth elsewhere in this Agreement, to the maximum extent permitted by Applicable Law, the Operator shall indemnify, defend, and hold harmless the Authority Indemnified Parties from all costs, claims, demands, actions, damages, expenses (including attorney's and expert's fees), liabilities, complaints, fines, penalties, citations, violations, or notices of violation arising from or attributable to: (i) the Operator's or its Subcontractors' (and/or their respective agents, representatives, contractors or Employees') violation or alleged violation of Environmental Laws; (ii) a presence or release of Hazardous Materials into the Environment caused by the Operator or any Operator Party at the Airport in excess of levels allowable by Environmental Laws or the violation of any Environmental Laws due to the Operator's or any Operator Party's negligent acts or omissions or negligent management, control, authorization, handling, possession, or use of Hazardous Materials at the Airport; (iii) any breach by the Operator of any of its warranties, representations, or covenants in this ARTICLE 8; and/or (iv) the Operator's remediation or failure to remediate Hazardous Materials as required by this Agreement. The Operator's obligations hereunder will survive the termination or expiration of this Agreement, and will not be affected in any way by the amount of or the absence in any case of covering insurance or by the failure or refusal of any insurer to perform any obligation on its part under insurance policies affecting the Airport or any part thereof. Notwithstanding the foregoing, the Operator has no indemnification obligation under this Section 8.4 for any costs, claims, demands, actions, liabilities, complaints, fines, citations, violations or notices of violation arising from or attributable to any release of Hazardous Materials in, on, or under the Airport prior to the Effective Date, except to the extent exacerbated by the Acts and Faults of the Operator or any Operator Party. The Operator, by written agreement, shall contractually require its Subcontractors to defend, indemnify, and hold harmless the Authority Indemnified Parties on these same terms.
- b. Subject to Section 8.2, with regard to any environmental contamination caused by the Acts and Faults of the Operator, the Operator must promptly take such action as is required by applicable Environmental Laws to clean up and remediate the Airport or portion of the Airport at the



Operator's own expense in accordance with Environmental Laws. The remediation must continue until the Entities with Jurisdiction determine that no further action is necessary in compliance with applicable Environmental Laws; it being understood and agreed that the Operator is obligated to clean-up and remediate the applicable property to achieve such standards or levels as are reasonably required by the Authority for properties at the Airport and by the Alabama Department of Environmental Management and the U.S. Environmental Protection Agency, as applicable.

8.5. Violations and Authority's Rights

8.5.1. Generally

- a. If the Authority receives a notice from any Entities ~~with~~ Having Jurisdiction asserting a violation by the Operator of the Operator's covenants and agreements contained herein, or if the Authority otherwise has reasonable grounds upon which to believe that such a violation has occurred, the Authority or its duly appointed consultants have the right, but not the obligation, to perform environmental site assessments (at the Operator's sole expense) for the purpose of determining whether there exists any environmental condition that could result in any liability, cost or expense to the Authority. The Authority may perform such tests on the Airport as may be necessary, in the opinion of the Authority or its duly appointed consultants, acting reasonably, to conduct a prudent environmental site assessment. The Operator must supply any information as is reasonably requested by the Authority. If Operator receives a Notice of Violation or similar enforcement action or notice of noncompliance, Operator must provide a copy of the same to the Authority within three (3) Days of receipt by the Operator or the Operator's agent.
- b. The Authority and its authorized representatives and consultants have the right, but not the obligation, to enter the FBO Site at all times to confirm the Operator's compliance with the provisions of this Section, this Agreement generally, and to review all Permits, reports, plans, and other documents regarding the use, handling, storage, or disposal of Hazardous Materials or compliance with Environmental Laws. Any such entry at the FBO Site by the Authority or its consultants, however, shall not be deemed or operate to impose or assume any duty, liability, or obligation on the Authority as it relates to complying with or ensuring compliance with Environmental Laws. The Operator must also promptly provide information in response to requests for information regarding compliance with its obligations under this Section.
- c. The Authority's exercise of any approval or inspection right under this ARTICLE 8 does not diminish or alter the Operator's obligation to comply with Applicable Law, including Environmental Laws, or any other term or condition of this Agreement unless expressly waived in writing by the Authority.

8.6. Environmental Representations

Notwithstanding any other provisions of this Agreement, and in addition to any and all other Agreement requirements, and any other covenants and warranties of the Operator, the Operator hereby expressly warrants, guarantees, and represents to the Authority, upon which Authority expressly relies, that the Operator:

- a. will comply, and cause all Operator Parties to comply, with all applicable Environmental Laws in connection with its performance of the Services and Work and use of any Authority Facilities and Assets, provided that in the event of any noncompliance with Environmental Laws, the Operator



must take prompt and appropriate action to address the conditions causing the noncompliance and return to full compliance;

- b. is knowledgeable of any and all Environmental Laws without limitation which govern or which in any way apply to the direct or indirect results and impacts to the environmental and natural resources due to, or in any way resulting from, the conduct by the Operator of its operations pursuant to this Agreement and upon the Airport, and the Operator agrees to keep informed of future changes in Environmental Laws;
- c. agrees to comply with all Environmental Laws applicable to its operations at the Airport and accepts full responsibility and liability for such compliance;
- d. has, and all Operator Parties have, been fully and properly trained in the handling and storage of all Hazardous Materials and other pollutants and contaminants, and such training complies with any and all Applicable Laws.
- e. agrees that it will neither handle nor store any Hazardous Materials on the Airport in excess of those required to perform the Services and Work and that all such Hazardous Materials will be stored, used, and disposed of in accordance with Applicable Law;
- f. must provide the Authority satisfactory documentary evidence of all such requisite ~~legal~~Environmental Permits and notifications as required by this Section 8.6; and
- g. agrees to cooperate with any investigation, audit, or inquiry by the Authority or any Entities Having Jurisdiction regarding possible violation of any Environmental ~~Law~~Laws.

8.7. Survival

The Authority's and Operator's rights and obligations under this Article 10 shall survive any termination of the Agreement.

ARTICLE 9. Relief and Claim Process for Relief Events

9.1. Relief Events

For purposes of this Agreement, a "Relief Event" means any of the following conditions or circumstances:

Relief Event	Description of Relief Event
"Adverse Event"	~~Each~~ <u>On and from the Commencement Date, each</u> of: (a) an Adverse Change in Law; (b) a material breach of this Agreement or material violation of Applicable ~~Law~~ <u>Laws</u> by MAA, which not an otherwise specified Adverse Event, provided that in the case of (a) and (b), such event or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by the Operator.
"Delay Event"	~~Any~~ <u>On and from the Commencement Date, any</u> of the following events that results in or would result in a delay or interruption in the Operator's

	performance of any obligation under this Agreement: ~~(a) an event of Force Majeure;~~ <u>(a)</u> ~~(b)~~ any unusual and unreasonable delay by a Governmental Authority to issue, agree to modify, renew, or extend any Authorization for which the Operator is responsible pursuant to this Agreement, provided that the Operator diligently pursued such Authorization and such delay could not have been reasonably prevented by technical and scheduling measures of the Operator in the ordinary course; <u>(b)</u> ~~(c)~~ any Change in Law which is not an Adverse Change in Law; <u>(c)</u> ~~(d)~~ a delay caused by the performance of works carried out by a Governmental Authority or Utility; <u>(d)</u> ~~(e)~~ a delay caused by the presence of any Unforeseen Environmental Impairment, Unforeseen Geological Impairment, Unforeseen Historically Significant Remains, or Unforeseen Endangered Species ~~in, on, or under any FBO Facility~~, which presence, in each case, results in a delay or interruption in the performance by the Operator under this Agreement; <u>(e)</u> ~~(f)~~ a delay caused by: (x) the occurrence of any casualty loss, destruction or damage of the FBO Facilities or (y) the performance or delay in performance of a restoration of any such casualty loss, destruction, or damage <u>(each such event, a "Casualty Event")</u>; <u>(f)</u> ~~(g)~~ an Emergency; <u>(g)</u> ~~(h)~~ a delay caused by the implementation of Engineering or Institutional Controls related to the FBO Facilities, provided that such failure or delay could not have been reasonably prevented by technical and scheduling measures of the Operator; and provided that in the case of (a) – (h), such delay or the cause thereof is not otherwise specifically dealt with in this Agreement and excluding any event to the extent such arises as a result of any Acts and Faults of or by the Operator.
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9.2. Claim Process

- a. The Operator will provide written notification to the Authority within ten (10) Days of discovering any Relief Event, which it believes has occurred and will result in submission of a Relief Event claim.
- b. As a condition to the Operator being entitled to any relief pursuant to this ARTICLE 9, within 60 Days following the date on which the Operator first became aware of the Relief Event, the Operator will submit a detailed claim regarding the event in form and substance reasonably acceptable to the Authority.

- c. The Authority will, after receipt of any Relief Event claim or in advance of an anticipated claim, be entitled to require the Operator to provide such further supporting particulars as the Authority may reasonably consider necessary by giving the Operator notice of the same.
- d. Upon final agreement between the Parties, such agreement not to be unreasonably withheld, as to any relief to which the Operator is then entitled in respect of any Relief Event, the Parties will execute a Modification Agreement or other written amendment (or, with respect to any Relief Event that was continuing when a prior such amendment was executed, a written addendum to such prior amendment) in a form to be prepared by the Operator (and reasonably acceptable to the Authority) setting out the details of such agreement.

9.3. Duty to Mitigate

- a. Without modifying its other obligations pursuant to this Agreement or those imposed by Applicable ~~Law~~ Laws, the Operator assumes a duty to mitigate and will:
 - i. ~~-~~ use reasonable efforts to eliminate or mitigate the adverse impacts of any Relief Event ~~and~~;
 - ii. ~~-~~ except as expressly provided in this Agreement, continue to perform its obligations under this Agreement notwithstanding the Relief Event; ~~and~~;
 - iii. ~~-~~ to the extent ~~such~~ its performance has been affected by the Relief Event, ~~to~~ resume performance of the affected Services and Work as soon as practicable and in all events promptly after the cessation or mitigation of the Relief Event.
- b. The Operator will not be entitled to any relief to the extent the associated performance disruption or cost would have been avoided by its compliance with the foregoing mitigation obligation.

9.4. Relief Events

- a. The Operator acknowledges and agrees that its right to claim an extension of time, relief from performance of its obligations, or other relief under this Agreement or to otherwise make any claim in connection with any Relief Event is as set out in this ARTICLE 9.
- b. Subject to the Operator's compliance with its obligations pursuant to Section 9.3, in the case of any Delay Event, such event will excuse the Operator from whatever performance pursuant to this Agreement is prevented by the relevant Delay Event, to the extent that the Operator's inability to perform such obligations is due to such Relief Event.
- c. The following events will be compensable in accordance with Section 9.4.d:
 - i. any Adverse Event; and
 - ii. the occurrence of any ~~Delay~~ Casualty Event that ~~has the effect of causing physical damage or destruction to~~ results in the FBO Facilities ~~that results in such~~ being substantially unavailable for performance of the Services and Work and such effect continues for a period in excess of 120 consecutive days and has a material adverse effect on the ~~Transaction~~ Services and Work, where Available Insurance or other similar proceeds are insufficient to restore the Operator to substantially the same economic position as it would have been in but for the ~~absence~~ occurrence of such ~~event~~ Casualty Event,

~~-(the foregoing events, collectively, "Compensation Events").~~



- d. Subject to Section 9.5, In the case of a Compensation Event, the Authority will compensate the Operator by paying, after taking into account Available Insurance, the sum of: all reasonable, documented out-of-pocket costs and expenses that are ~~reasonably~~ directly attributable to such Compensation Event (excluding any costs and expenses that the Operator would otherwise expend or incur in order to comply with this Agreement or in the ordinary course of the performance of the Services and Work or the carrying on of business in the ordinary course) up to an amount not to exceed 50% of the Management Fee for the current Operating Year less any applicable Incentive Fee.

9.5. Special Provisions Regarding Force Majeure

Except for the Operator's obligation to remit payments to the Authority and the Authority's obligations to disburse payments to the Operator, it is not an Event of Default and all deadlines will be extended on a day-for-day basis, if the Authority or the Operator is prevented from performing any of its obligations under this Agreement due to the occurrence an event of Force Majeure. Notwithstanding the occurrence of an event of Force Majeure, each Party must use diligent efforts to perform its obligations under this Agreement.

ARTICLE 10. Insurance, Indemnification, and Bonding

10.1. Insurance Requirements

10.1.1. Insurance Coverage Required of Operator

- a. On and from the Effective Date, during the Pre-Operations Period, and during any time period following expiration of this Agreement if the Operator is required to return and perform any additional work, the Operator will procure and maintain in force, or cause to be procured and maintained in force, at its own expense, the insurance coverages and requirements specified in Exhibit F, (the policies and limits specified in Section 2 of Exhibit F, the "Pre-Operations Coverages"). For certainty, except as expressly provided herein, the costs of carrying such Pre-Operations Coverages shall not be Allowable Operating Expenses. The Operator's failure to maintain the Pre-Operations Coverages shall be a material breach of contract. The Authority, at its sole option, may:
- i. terminate the Agreement and obtain damages from the Operator resulting from said breach; or
 - ii. purchase such Pre-Operations Coverages (but has no special obligation to do so) and, without further notice to the Operator, deduct from sums due to the Operator any premium costs advanced by Authority for such insurance.
- b. ~~The Operator will provide and maintain at its own expense, or cause to be maintained~~ On and from the Commencement Date, during the Term Operations Period, and during any time period following expiration of this Agreement if the Operator is required to return and perform any additional work, the Operator will procure and maintain in force, or cause to be procured and maintained in force, the insurance coverages and requirements specified in Exhibit F, (the policies and limits specified in Section 3 of Exhibit F, the "Required Coverages"). Except as expressly provided herein, the costs of carrying such Required Coverages shall be Allowable Operating Expenses. The Operator's failure to maintain the Required Coverages shall be a material breach of contract. The Authority, at its sole option, may:



- i. ~~a.~~ terminate the Agreement and obtain damages from the Operator resulting from said breach;
or
- ii. ~~b.~~ purchase such Required Coverages (but has no special obligation to do so) and, without further notice to the Operator, deduct from sums due to the Operator any premium costs advanced by Authority for such insurance.

10.1.2. Inadequacy or Unavailability of ~~Required~~ Insurance Coverages

If the Operator demonstrates to the Authority's reasonable satisfaction that it has used diligent efforts in the global insurance and reinsurance markets to procure the Pre-Operations Coverages and Required Coverages (collectively, the "Insurance Policies"), and if despite such diligent efforts and through no fault of the Operator any of such ~~coverages~~ Insurance Policies (or any of the required terms of such coverages, including policy limits) become completely unavailable or unavailable at commercially reasonable rates from insurers meeting the requirements of this Section, the Authority will consider, in good faith, alternative insurance packages and programs that provide coverage as comparable to that contemplated in this this Section as is possible under then-existing insurance market conditions.

10.1.3. Insurance Coverage Provided by MAA

- a. The Authority will purchase and maintain all-risk replacement cost Insurance, insuring against loss or damage to the Fuel System used in the Services and Work.
- b. Any insurance coverage provided by the Authority will be subject to terms, conditions, and other provisions, including exclusions and limitations, contained in the policies issued to the Authority.
- c. The Operator shall not do any act or allow any condition to exist that may terminate or cause the termination of any insurance coverage provided by the Authority.
- d. The Authority is responsible for any deductible or self-insured retention as they apply to the policies required of the Authority to maintain in accordance with this Agreement.

10.2. Indemnity

10.2.1. No Obligation to Indemnify Operator

Without limiting the Authority's express obligations and liabilities under this Agreement, the Authority will not indemnify the Operator and no such express obligation or liability will be construed to the contrary as an indemnity.

10.2.2. Operator Indemnity

The parties knowingly, even-handedly, intelligently and for valid consideration agree to the following:

- a. Subject to the limitations and exclusions set out in Section 10.2.2.b, the Operator, on behalf of itself and its agents and Subcontractors, will, to the fullest extent permitted by Applicable ~~Law~~ Laws, release, protect, defend, indemnify, reimburse, and hold harmless the Authority and its officers, directors, agents, and employees (the "**Authority Indemnified Parties**") from and against any and all Claims, to the extent arising from, or as a consequence of:



- i. the Operator's fraud, willful misconduct, criminal conduct, recklessness, bad faith, or gross negligence;
 - ii. any breach by the Operator of this Agreement;
 - iii. any violation of Applicable ~~Law~~ Laws;
 - iv. any assertions of claims for failure of payment, or failure to provide appropriate bonds, made by Subcontractors or suppliers, and against any assertions of security interests by suppliers of goods, services, or materials; including in each such case any such Claims that are in respect of: (x) death, sickness, or personal injury; or (y) loss of or damage to any Authority Indemnified Party's property (whether personal or real), equipment or facilities, or to any natural resources, including loss of use thereof; and
 - v. any material disruption to, or any material interruption of the performance of, public services and activities by any Authority Indemnified Party, provided that nothing in this Section 10.2.2 will limit or preclude the Operator's right to claim any affirmative defense permitted by Applicable Law.
- b. The Operator's indemnification and hold harmless obligations pursuant to this Section 10.2.2 will not extend to any Claim of an Authority Indemnified Party to the extent that such Claim arises from the willful misconduct, criminal conduct, recklessness, bad faith, or negligence of such Authority Indemnified Party.

10.2.3. Notice of Claims and Tender of Defense

- a. If the Authority receives notice of a third-party Claim or otherwise has actual knowledge of a third-party Claim that it believes is within the scope of Section 10.2.2, the Authority will:
- i. provide the Operator with reasonably prompt notice and details regarding such Claim; and
 - ii. tender to the Operator the Authority's defense of any such Claim and use reasonable efforts to cause each other Authority Indemnified Party to tender to the Operator such Authority Indemnified Party's defense of any such Claim.

10.2.4. Survival

The Operator's indemnification obligations under this Section 10.2 shall survive the completion, performance, and/or termination of this Agreement. The Operator shall include substantially similar provisions in its agreements/contracts with its Subcontractors naming the Authority Indemnified Parties as indemnitees thereunder.

10.3. Bonding and Other Security

10.3.1. Employee Fidelity Bond Requirements

The Operator will, during the Term of and at all times while providing Services and Work under the Agreement procure and maintain in force from a surety authorized to issue surety bonds in the State or any other State-authorized issuer or provider of bonds or security: a bond covering theft, dishonesty, disappearance, forgery, alteration, and destruction caused by any Employee (each a "**Employee Fidelity Bond**"). The Employee Fidelity Bond shall:



- a. be in the amount of \$5,000 for each Employee;
- b. name the Authority as a named beneficiary; and
- c. be filed with the Authority ~~with~~ within 30 Days of the hiring of each Employee with a certificate evidencing such coverage that states the coverage will not be canceled, reduced, or materially changed without at least 30 Days' prior written notice to the Authority.

10.3.2. Operator Fidelity Bond Requirements

During the Operations Period, the Operator will procure and maintain in force from a surety authorized to issue surety bonds in the State or any other State-authorized issuer or provider of bonds or security: a bond covering theft, dishonesty, disappearance, forgery, alteration, and destruction caused by the Operator (the "**Operator Fidelity Bond**"). The Operator Fidelity Bond shall:

- a. be in the amount equal to 50% of the current Operating Year's budgeted Operating Revenues; and
- b. be filed with the Authority prior to the Commencement Date; and
- c. be re-filed with the Authority upon renewal, replacement, or expiration on a date that is not less than 60 Days prior to the commencement of each Operating Year of the Term.

10.3.3. Requirements for Capital Projects

As a condition to authorization to undertake any Capital Project, the Operator will be required to obtain from a surety authorized to issue surety bonds in the State, or any other legally authorized issuer or provider of security, payment, performance, or other bonds or security: a payment and performance security in an amount equal to 100% of the estimated cost to complete the authorized Capital Project. The Operator shall provide such bonds or security to the Authority from a surety or other provider of security, at such time and in such form, as the Authority may reasonably require.

ARTICLE 11. Default, Remedies, and Termination

11.1. Event of Default with Respect to Operator

11.1.1. Events of Operator Default

- a. The occurrence of any one or more of the following events during the Term will constitute a "**Operator Default**" under this Agreement unless otherwise expressly excused pursuant to this Agreement and except to the extent such event arises as a direct result of the occurrence of a Relief Event:
- b. The Operator fails to comply with, perform, or observe either any obligation, covenant, agreement, term, or condition in this Agreement (including the FBO Standards), and such failure continues unremedied for a period of:
 - i. three (3) Days following notice thereof (giving particulars of the failure in reasonable detail) from the Authority to the Operator with respect to any failure that directly results in: a lapse in Operator's obligation to maintain the Pre-Operations Coverages or Required Coverages; a security risk or safety hazard at the Airport; or any violation of applicable TSA regulations or other Applicable ~~Law~~ Laws; or



- ii. 15 Days following notice thereof (giving particulars of the failure in reasonable detail) from the Authority to the Operator with respect to any other failure.

11.1.2. Authority Remedies upon Operator Default

Upon the occurrence, and during the continuance, of an Operator Default, the Authority may, by notice to the Operator, declare the Operator to be in default and may, subject to the dispute resolution provisions of ARTICLE 13, do any or all of the following:

- a. terminate this Agreement by giving 30 Days' prior notice to the Operator upon the occurrence and continuation of an Operator Default under Section 11.1.1, provided that the Operator will be entitled to cure such Operator Default during such period (or such longer period as the Parties may agree is reasonably necessary to cure such failure);
- b. with respect to amounts owed by the Operator to the Authority pursuant to such Operator Default, the Authority may withhold or deduct such amount from any compensation owed to the Operator pursuant to this Agreement; and
- c. the Authority may exercise any of its other rights and remedies provided for hereunder or at law or in equity (including specific performance, injunction, or other equitable remedies).

11.2. Event of Default with Respect to the Authority

11.2.1. Events of Authority Default

The occurrence of any one or more of the following events during the Term will constitute an "Authority Default" under this Agreement unless otherwise cured within a reasonable time or expressly excused pursuant to this Agreement and except to the extent such event arises as a direct result of the occurrence of an event of Force Majeure or the Acts and Faults of the Operator:

- a. The Authority fails to make any payment due and owing to the Operator pursuant to this Agreement when due (unless such payment is the subject of a good faith dispute), and such failure continues unremedied for a period of ten (10) Business Days following notice thereof (giving particulars of the failure in reasonable detail) from the Operator to the Authority; and
- b. any breach by the Authority of any other material obligation, covenant, agreement, term, or condition in this Agreement and such occurrence substantially frustrates or renders it impossible for the Operator to perform all or a substantial part of its obligations or to exercise all or a substantial part of its rights under the Agreement and such condition continues unremedied for a period of 60 Days following notice thereof from the Operator to the Authority.

11.2.2. Operator Remedies upon Authority Default

Upon the occurrence, and during the continuance, of an Authority Default, the Operator may, by written notice to the Authority, declare the Authority to be in default and may, subject to the dispute resolution provisions of ARTICLE 13, do, in its discretion, any or all of the following:

- a. terminate this Agreement by giving 30 Days' prior notice to the Authority upon the occurrence and continuation of an Authority Default under Section 11.2.1, provided that the Authority will be entitled to cure such Authority Default during such period (or such longer period as the Parties may agree is reasonably necessary to cure such failure); and



- b. exercise any of its other rights and remedies provided for hereunder or at law or in equity (including specific performance, injunction, or other equitable remedies).

11.3. Termination

11.3.1. Exclusive Termination Provisions

Sections 11.2.1, 11.2.2, and this Section 11.3 contain the entire and exclusive provisions and rights of the Authority and the Operator regarding termination of this Agreement, and any and all other rights to terminate at law or in equity are hereby waived to the maximum extent permitted by Applicable Law, provided that termination of this Agreement will not relieve the Parties or any insurer or any surety or other financial institution that provides insurance or bonding, of its obligation for any Claims arising prior to termination.

11.3.2. Termination Other Than For Default

The Parties may mutually agree to terminate this Agreement prior to the expiration of the Term as provided herein. ~~Upon~~ Subject to Section 1.2.b, upon expiration of the Term, the term of this Agreement may be extended upon the mutual written agreement of the Parties; provided, however, no Party shall have any obligation or requirement to so extend.

11.3.3. Termination Compensation

- a. In the event of termination as a result of an Operator Default, no amount will be due and owing from the Authority to the Operator as a result of such termination.
- b. In the event of termination as a result of an Authority Default, the Authority will promptly pay to the Operator, and in any event within 30 Days of the determination of the relevant amount, only the following: the sum of (without duplication): any undisputed amounts of compensation then otherwise owing from the Authority to the Operator pursuant to this Agreement, less any amounts ~~then otherwise owing~~ then-owing from the Operator to the Authority pursuant to this Agreement. The Operator shall not be entitled to recover, and hereby waives, any further types or amounts of damages, however characterized.

11.3.4. Consequences of Termination

Upon the termination or expiration of this Agreement, notwithstanding any claims the Parties may have against each other, the following provisions will apply:

- a. the Operator will, without action whatsoever being necessary on the part of the Authority, surrender, transfer, and deliver to the Authority the Authority Facilities and Assets in good order, condition, and repair (reasonable wear and tear excepted), determined reasonably in accordance with the then-applicable FBO Standards;
- b. the Authority will, as of the Handback Date, assume full responsibility for the Services and Work;
- c. the Operator will be liable for all costs, expenses, and other amounts for which it is liable or responsible hereunder incurred up to but not including the Handback Date, and the Authority will be liable for all costs, expenses, and amounts incurred in connection with the Services and Work on and after the Handback Date.



ARTICLE 12. Oversight and Compliance

12.1. Recordkeeping and Right of Audit

- a. The Operator will (and will require that each of its Subcontractors and each of their respective subcontractors will) at all times create and maintain FBO Records. Such FBO Records shall be maintained until at least four (4) years following the Expiry Date (or, if earlier, upon termination of this Agreement).
- b. The Operator will provide access to FBO Records during normal business hours (and, upon reasonable request, at times outside normal business hours) and upon reasonable notice, unless the Authority has a good faith suspicion of fraud in which case no prior notice will be required, and otherwise in accordance with Applicable Law.
- c. Upon prior notice to the Operator, the Authority and its agents or the FAA may inspect, review, and audit the FBO Records. The Operator must promptly correct any errors, discrepancies, or omissions in the FBO Records identified by the Authority or the FAA.
- d. The authorized ~~representatives~~Representatives of the Authority may inspect and audit all FBO Records from the Effective Date through and until the expiration of three (3) years after the later of the Expiry Date or final payment under the Agreement.
- e. The Operator must ensure, at a minimum, that the FBO Records are sufficient to demonstrate compliance with all Applicable Laws. The Operator must promptly resolve any discrepancies, errors, or omissions in such documentation.

12.2. Public Records under the Alabama Open Records Law

- a. Any materials submitted to the Authority in accordance with this Agreement may be subject to disclosure pursuant to the Alabama Open Records Law at § 36-12-40 of the Code of Alabama (the "**Public Records Law**"). In the event the Operator submits any materials to the Authority that it believes are not subject to disclosure pursuant to the Public Records Law (such materials, "**Public Records Exempt Materials**"), it must conspicuously mark the affected document "CONFIDENTIAL" or "CONFIDENTIAL TRADE SECRETS" in the header or footer of each such page affected.
- b. If the Authority receives a request for public disclosure of materials submitted by the Operator that the Operator has identified as Public Records Exempt Materials that are in the Authority's possession, the Authority will provide notice to the Operator of the request and give the Operator an opportunity to assert a claimed exception under the Public Records Law or other Applicable ~~Law~~Laws within the time period specified in the notice issued by such Authority and allowed under the Public Records Law.
- c. Under no circumstances will the Authority be responsible or liable to the Operator or any other Person for:
 - i. advising the Operator as to the nature or content of documents entitled to protection from disclosure under the Public Records Law or other Applicable Law, as to the interpretation of such laws, or as to the definition of trade secret; or



- ii. the disclosure of any such materials that the Authority determines is required by Applicable ~~Law~~ Laws or is required by court order.
- d. In the event of any proceeding or litigation concerning the disclosure of any material submitted by the Operator to the Authority, the Authority's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court or such other ~~authority having jurisdiction~~ Entity Having Jurisdiction with respect to the material. The Operator will be fully responsible for defending, indemnifying, and holding the Authority harmless, and otherwise prosecuting or defending any action concerning the materials; provided, however, that the Authority reserves the right, in its sole discretion, to intervene or participate in the litigation in such manner as it deems necessary or desirable. Except in the case of the Authority's voluntary intervention or participation in litigation, the Operator will pay and reimburse the Authority for all costs, damages, judgments, and expenses the Authority incurs in connection with any litigation, proceeding, or request for disclosure.

12.3. Certificates and Licenses

With the Operator's regular assistance and cooperation, the Authority must secure, or cause to be secured, from any and all Governmental Authorities having jurisdiction thereof, all applicable licenses, certificates, permits, or other authorizations and any and all renewals thereof, which must be in the Authority's name as the owner of the FBO Facilities and which pertain to or apply to the operation, use, or maintenance of the FBO Facilities. With the Authority's regular assistance and cooperation, Operator must secure any such licenses, certificates, permits, or other ~~authorizations~~ Authorizations which may or must be issued in the Operator's name as the operator and manager of the FBO Facilities under Applicable ~~Law~~ Laws.

12.4. Minimum Standards

The Operator must perform the Services and Work in accordance with the current Airport Minimum Standards attached as Exhibit G.

12.5. Safety and Security Obligations

12.5.1. General Requirements

The Operator will comply with all safety and security rules and procedures applicable to the FBO Site and to the Authority Facilities and Assets.

12.5.2. Airport Security Plan

The Operator and its Operator Parties must comply with (i) the provisions of any TSA-approved airport security plan for the Airport as from time to time existing, and (ii) applicable regulations of the TSA, as from time to time existing. If the Operator or any Operator Party fails or refuses to comply with said measures and such non-compliance results in a monetary penalty being assessed against the Authority, then, in addition to any other terms of this Agreement, the Operator will be responsible and must reimburse the Authority in the full amount of any such monetary penalty or other damages.



12.5.3. Confidential and Sensitive Security Information

- a. The Operator shall refrain from disclosing any information received from the Authority which is identified as confidential or sensitive security information; provided, however, that the Operator may disclose such confidential or sensitive security information to its ~~employees~~ Employees or agents who are required to protect it against unauthorized disclosure.
- b. The Operator shall immediately notify the Authority in writing of any other request for disclosure or release of information that is confidential or otherwise exempt from public disclosure and shall coordinate any response to such request with the Authority's designated custodian of records. No response to such request or release of any such information by the Operator shall be made without the prior written approval of the Authority.
- c. Nothing herein will prevent either Party from disclosing confidential information as required by Applicable ~~Law~~ Laws; provided, however, that each Party shall refrain disclosing such information without first providing the other Party with at least ten (10) days' prior written notice and opportunity to respond as required herein.
- d. Notwithstanding the foregoing, the Authority may in its discretion require the Operator, each Key Personnel, and each Subcontractor, which has access to personally identifiable information and/or sensitive security information to execute a confidentiality agreement in form and substance acceptable to the Authority.

12.5.4. Emergency Management

- a. The Authority must provide the Operator with contact information for the applicable local emergency management officials and service providers. Prior to performing the Services and Work, the Operator must organize and participate in a meeting with local emergency management officials and the Authority. The Operator must complete any training required by the local emergency management officials, and provide any information requested by the local emergency officials pertinent to the Services and Work or its operations at the Airport.
- b. The Operator must comply with any notification procedures requested or required by local emergency management officials. The Operator must immediately notify the Authority if any Emergency occurs on the FBO Site, including but not limited to:
 - i. a fire;
 - ii. a breach of Airport security;
 - iii. a significant Fuel spill;
 - iv. any accident or incident causing damage to an aircraft or injury to persons; or
 - v. a vehicle accident causing ~~significant~~ property damage, bodily injury, or death.

12.6. Corrective Action Plans and Authority Right to Act in Operator's Place

- a. The Operator acknowledges that, as the owner and ~~sponsor~~ Sponsor of the Airport, the Authority is obligated to comply with the assurances set forth in its Grant Agreements and that the Authority must retain sufficient rights and powers in order to do so. If the Operator fails to perform the Services and Work in accordance with the requirements of this Agreement, including without

limitation, in violation of any Grant Assurance, as determined by the FAA or the Authority in its or their sole discretion, the Authority must provide written notice to the Operator setting forth the specific failures and/or violations, and the Authority shall be entitled to assert a claim for damage resulting therefrom.

- b. No later than 30 days from the Operator's receipt of such notice (or a shorter period if required by any Entities Having Jurisdiction), the Operator must prepare and timely deliver to Authority a written corrective action plan designed to remedy all such failures and/or violations, which must be reviewed and approved by the Authority in its reasonable discretion, and is subject to review and approval by the FAA. Upon such approvals, the Operator must promptly commence and diligently complete the tasks and other requirements of such plan.
- c. If the Operator fails to provide such ~~compliance~~corrective action plan within 30 days (or a shorter period if required by any Governmental Authority having jurisdiction) or promptly and diligently undertake reasonable steps to fulfill the ~~compliance~~corrective action plan thereafter, the Authority may take such actions as it may determine to be necessary under the circumstances to cure such failure or violation and continue for such period of time as may be necessary to complete such cure.
- d. Any and all costs incurred by the Authority in effecting any such cure must be reimbursed by the Operator, plus an additional 15% for administrative overhead, within 30 days after Authority provides an invoice therefor.

12.7. Compliance with Grants

- a. The Authority must remain the federal or state obligated ~~sponsor~~Sponsor of the Airport for all existing Grant Agreements and must be the obligated ~~sponsor~~Sponsor for future Grant Agreements. Accordingly, it is understood that Authority retains responsibility for compliance with existing and future Grant Agreements. The Authority hereby reserves such rights and authority to ensure that the Airport will be operated and maintained in accordance with Applicable ~~Law~~Laws, including without limitation the Authority's contractual assurances entered into, or hereinafter entered into, in Grant Agreements between Authority and FAA and/or any Governmental Authority.
- b. Notwithstanding the foregoing Section 12.7.a, as between the Authority and the Operator, the Operator, as operator and manager of the FBO Facilities, must ensure compliance with Authority's obligations under the Grant Agreements as such obligations pertain to operation and maintenance of the FBO Facilities.
- c. If Operator becomes aware of any formal or informal complaint by an Airport user or tenant that alleges the Operator is not operating or maintaining the FBO in compliance with any aspect of the Grant Agreements, it must immediately notify the Authority and forward to the Authority any information or documentation provided by the complaining party and any information or documentation in the Operator's possession pertaining to the dispute. Subject to Applicable ~~Law~~Laws, the Authority must have the right to take actions reasonably necessary to investigate any such complaints and determine the Operator's compliance with the Grant Agreements.

ARTICLE 13. Partnering, Dispute Resolution, and Legal Matters

13.1. Scope

Any dispute arising out of, relating to, or in connection with this Agreement will be resolved as set forth in this ARTICLE 13.

13.2. Partnering to Achieve Amicable Settlement

- a. The Parties will initially attempt to reach an amicable settlement of any dispute prior to referring such dispute for resolution pursuant to the formal dispute resolution procedure (as described in Section 13.3, the “**Dispute Resolution Procedure**”).
- b. Any such attempt may be made by any ~~representatives~~ Representatives of the Parties, the “**Designated Senior Persons**,” ~~that~~ who have the authority, capacity, competency, and reputation to make such attempt. The Designated Senior Persons will negotiate in good faith to resolve the dispute, conferring as often as they deem reasonably necessary for a period of at least 15 Days or such longer period as is mutually agreed by the Parties in writing (the “**Negotiation Period**”).
- c. If amicable settlement is achieved pursuant to this Section, the Parties will execute a written memorandum or similar document in a form to be prepared by the Authority (unless the Authority otherwise delegates such preparation to the Operator, in which case the Operator will prepare such memorandum or document) setting out the details of such settlement, and such document will be considered a binding settlement agreement.
- d. If, after the conclusion of the Negotiation Period the dispute remains unresolved, either Party may refer the dispute for resolution pursuant to the Dispute Resolution Procedure in the following Section 13.3.

13.3. Dispute Resolution Procedure

Either Party may formally initiate a dispute by delivering a notice to the other Party stating the matter requiring resolution. Following issuance of such notice, the dispute will be initially decided by a committee consisting of the Authorities’ designees, who may consider written and documentary information submitted by either Party in accordance with procedures established by such committee. Following the committee’s issuance of its decision, either Party may seek further resolution through a court proceeding, provided that at any time, including prior to the committee’s issuance of its decision, either Party may avail itself of any remedy under law or contract, including by commencing court proceedings with respect to any dispute, if necessary to preserve such Party’s rights under any applicable statute of limitations.

13.4. Treatment of Settlement Negotiations and Mediation

Statements made by the Parties, including by their Representatives and Designated Senior Persons, during any meetings or in any communications related to efforts to amicably settle or resolve a dispute pursuant to Sections 13.2 and 13.3, and documents containing statements or opinions specifically prepared in connection with the same will be considered part of settlement negotiations and will not be admissible as evidence in any litigation proceeding between the Parties without the mutual written consent of the Parties.

13.5. Governing Law



This Agreement will be governed by, and interpreted and enforced in accordance with, the Applicable Laws in force in the State (excluding any conflict of laws rule or principle which might refer such interpretation to the Applicable Laws of another jurisdiction).

13.6. Submission to Jurisdiction

- a. Subject to ARTICLE 13, any action or proceeding against any Party relating in any way to this Agreement may be brought and enforced in the federal or state courts in the State, and each of the Operator and the Authority hereby irrevocably submits to the jurisdiction of such courts with regard to any such action or proceeding, and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may have now or hereafter have to the laying of venue of any such action or proceeding in such courts and any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.
- b. Service of process on the Authority may be made, either by registered or certified mail addressed as provided for in Section 14.4. Service of process on the Operator may be made either by registered or certified mail addressed as provided for in Section 14.4.
- c. If the Operator is presented with a request for information or documents by any administrative agency or with a subpoena duces tecum regarding any information or documents which may be in its possession by reason of this Agreement, the Operator will give reasonably prompt notice to the Authority. The Authority may contest such process by any means available to it before such information or documents are submitted to a court or other third party; provided, however, that the Operator will not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency or required by Applicable Law, unless the subpoena or request is quashed or the time to produce is otherwise extended.

ARTICLE 14. Miscellaneous Provisions

14.1. Relationship of Parties and Limitation on Third Party Beneficiaries

Nothing herein contained is intended or shall be construed to in any respect to create or establish any relationship other than that of owner and service provider, and nothing herein shall be construed to establish any partnership, joint venture, or association or to make the Operator the general representative or agent of the Authority for any purpose whatsoever except as expressly provided herein, nor will any term or provision hereof be construed in any way to grant, convey, or create any rights or interests to any Person not a party to this Agreement.

14.2. No Personal Liability

- a. Representatives of the Authority are acting solely as agents and representatives of the Authority, when carrying out the provisions of or exercising any right under this Agreement. They shall not be liable either personally or as employees of the Authority for actions in their ordinary course of employment.
- b. No agent, consultant, officer, or authorized employee of the Authority will be responsible either personally or as an agent, consultant, officer or employee, or board member, for any liability arising under this Agreement; it being understood that in such matters they act as representatives of the Authority.



14.3. Agreements with the United States

14.3.1. Agreement Subordinate to Grant Assurances

- a. The Operator covenants and agrees that this Agreement is subject and subordinate to the provisions of any existing or future agreement between the Authority and the United States ~~Government~~ government or any other Governmental Authority, including those agreements relative to the development, operation, or maintenance of the Airport, and including, but not limited to, those for which the terms and execution of have been or may be required as a condition precedent to the expenditure, granting, or reimbursement to the Authority of federal funds for the development of the Airport ("**Grant Assurances**"). In the event that this Agreement, either on its own terms or by any other reason, conflicts with or violates such Grant Assurances, the Authority has the right to amend, alter, or otherwise modify the terms of this Agreement in order to resolve such conflict or violation. The Operator further agrees that it must not take any action or fail to take action that would cause the Authority to violate any Grant Assurances made by the Authority to the federal government in connection with the granting of such federal funds.
- b. All provisions of this Agreement are subordinate to the rights of the United States of America to operate all of the Airport or any part thereof during time of war or national emergency. Such rights shall supersede any provisions of this Agreement inconsistent with the operation of the Airport by the United States of America.

14.3.2. Federal Right to Reclaim

In the event a United States governmental agency demands and takes over the entire facilities of the Airport for public purposes, then this Agreement will terminate and the Authority shall be released and fully discharged from any and all liability hereunder. In the event of such termination, nothing herein shall be construed as relieving the Operator from any of its liabilities relating to events or claims of any kind whatsoever prior to such termination.

14.3.3. Non-Discrimination

The Operator acknowledges that the Authority is required by the federal government under the terms of certain agreements between the Authority and the United States of America relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the grant or receipt of federal funds for the development of the Airport, to include in this Agreement certain required contract provisions, attached in Exhibit H hereto ("**Required Federal Provisions**"). Subject to Applicable ~~Law~~ Laws, the Operator agrees to comply with any changes to or interpretation of the Required Federal Provisions that may from time to time be required by the FAA or other agency with jurisdiction, within ten (10) Days of receiving notice from the Authority of such required changes.

14.3.4. Prohibition Against Exclusive Rights

It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Authority reserves the right to grant to others the privileges and right of conducting any or all activities of an aeronautical nature.



14.4. Notices

All notices, other communications, and approvals required or permitted by this Agreement must be in writing and will be delivered: (i) by electronic mail (provided that notice by electronic mail in accordance with this Section will be deemed delivered upon confirmation of receipt by the recipient, of which automated reply is insufficient); (ii) by recognized overnight courier; or (iii) by certified or registered mail (return receipt requested and postage prepaid), addressed as follows:

a. in the case of the Authority:

[]

[]

[]

~~Email:~~ []

with a copy to:

[]

[]

[]

~~Email:~~ []

b. in the case of the Operator:

[]

[]

[]

Email: []

with a copy to:

[]

[]

[]

Email: []

or such other persons or addresses as either Party may from time to time designate by notice to the other. A notice, other communication, or approval will be deemed to have been sent and received (i) on the Day it is delivered, or if such Day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication,



or approval will be deemed to have been sent and received on the next Business Day, or (ii) on the fourth (4th) Business Day after mailing if sent by U.S. registered or certified mail.

14.5. Entire Agreement

- a. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions, and understandings, written or oral, between the Parties.
- b. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree that:
 - i. each has substantial business experience and is fully acquainted with the provisions of this Agreement;
 - ii. the provisions and language of this Agreement have been fully negotiated; and
 - iii. no provision of this Agreement will be construed in favor of any Party or against any Party by reason of such provision of this Agreement having been drafted on behalf of one Party rather than the other.

14.6. Severability

- a. If any provision of this Agreement or the application thereof to any Person or circumstance is held or deemed to be or determined to be invalid, inoperative or unenforceable in any particular case in any particular jurisdiction or jurisdictions because it conflicts with any other provision or provisions hereof or of any applicable Law, or public policy, or for any other reason, then:
 - i. the Parties will promptly meet and negotiate a substitute for such provision or part thereof which will, to the greatest extent legally permissible, effect the original intent of the Parties and amend this Agreement to implement the provisions set forth herein, and
 - ii. if the Parties cannot agree on an appropriate amendment, either Party may refer the matter for determination pursuant to the Dispute Resolution Procedure in ARTICLE 13.
- b. If any provision (or part of any provision) of this Agreement will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such provision (or part thereof) will not affect the validity, legality, and enforceability of any other provision of (or the other part of such provision) or any other documents referred to in this Agreement, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision (or part thereof) had never been contained herein.

14.7. Assignments and Transfers

14.7.1. Transfers by the Operator

- a. Transfers in relation to the Operator are permitted unless they are a Prohibited Transfer.
- b. Except to the extent expressly permitted under this Section 14.7, the Operator will not otherwise voluntarily or involuntarily, directly or indirectly sell, assign, convey, Transfer, pledge, mortgage,



sublease, or otherwise encumber the Operator's interest in and to this Agreement in whole or in part without the prior written consent of the Authority in its discretion.

- c. Any Transfer made or purportedly made in violation of the restrictions set out in this Section 14.7 will be null and void ab initio.

14.7.2. Assignments and Transfers by MAA

The Authority may assign, transfer, mortgage, pledge, and/or encumber its interests in, or rights or obligations under, this Agreement to:

- a. a successor Governmental Authority so long as:
 - i. such assignment, transfer, mortgage, pledge, and/or encumbrance is not prohibited by Applicable Law; and
 - ii. following such assignment, transfer, mortgage, pledge, and/or encumbrance, the holder(s) of such interests, rights and obligations shall collectively have materially the same or equivalent: (x) legal authority with respect to the ~~Transaction~~Agreement; and (y) legal authority and financial capacity with respect to satisfying, as applicable, its payment obligations with respect to the ~~Transaction~~Agreement, as the holder(s) thereof had immediately prior to such assignment, transfer, mortgage, pledge, and/or encumbrance, in connection with any aspect of the ~~Transaction~~Agreement; and
- b. any other Person with the prior written consent of the Operator, which consent shall not be unreasonably withheld.

14.8. Survival

The following provisions of this Agreement shall survive expiration or earlier termination of this Agreement:

- a. Section 2.6 regarding intellectual property; ARTICLE 10 regarding insurance and indemnification; Sections 12.1 and 12.2 regarding records; Section 11.3.4 regarding handback; Section 11.3 regarding termination; Section 1.4 regarding the Parties' representations and warranties; Section 13.5 regarding governing law; ARTICLE 13 regarding disputes;
- b. any other provisions which, either expressly or by their context, are intended to operate after termination or expiration of this Agreement; and
- c. any other provisions if and to the extent necessary for the interpretation or application of the foregoing.

14.9. Amendment and Waiver

- a. This Agreement may be amended, changed, or supplemented only by a written agreement signed by each of the Parties.
- b. Except to the extent otherwise expressly provided in this Agreement:
 - i. any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be approved in the discretion of the Party giving it and will be effective only if it is in writing



by such Party, and only in the specific instance, for the specific time, subject to the specific conditions and for the specific purpose for which it has been given;

- ii. no failure on the part of any Party to exercise, and no delay in exercising, any right or power under this Agreement will operate as a waiver of such right or power; and
- iii. no single or partial exercise of any right or power under this Agreement, including any right to give or withhold any consent, approval or Acceptance, nor any abandonment or discontinuance of steps to enforce such a right or power, will preclude or render unnecessary any other or further exercise of such right or the exercise of any other right.

14.10. Further Acts

The Parties will do or cause to be done all such further acts and things as may be reasonably necessary or desirable to give full effect to this Agreement. Without limiting the foregoing, each Party will, at any time and from time to time, execute and deliver or cause to be executed and delivered such further instruments and assurances and take such further actions as may be reasonably requested by the other Party in order to cure any defect in the execution and/or delivery of this Agreement.

14.11. Counterparts

This Agreement (and any amendment or waiver in respect to this Agreement) may be executed in any number of counterparts which, taken together, will constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to both Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by electronic transmission. Such Party will be deemed to have executed and delivered this Agreement on the date it sent such electronic transmission. In such event, such Party will forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

14.12. Signature Warranty

Each signatory to this Agreement warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.



WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date executed by the Montgomery Airport Authority.

OPERATOR: []

By: _____

Name: []

Title: []

MAA: **MONTGOMERY AIRPORT AUTHORITY**, a public corporation of the State

(SEAL)

By: _____

Name: []

Title: []

Date: _____



List of Attachments to FBO Services Agreement

Appendix A:	Definitions and Interpretation
Appendix B:	Rules of Interpretation
Exhibit A:	Description of the FBO Site and Fuel System
Exhibit B:	Proposal
Exhibit C:	Representations and Warranties of the Parties
Exhibit D:	Operator Scope of Work
Exhibit E:	Environmental Documentation
Exhibit F:	Insurance Requirements
Exhibit G:	Minimum Standards
Exhibit H:	Required Federal Provisions



Appendix A: Definitions and Interpretation

For the purposes of this Agreement, and except as otherwise specified herein or as the context may otherwise require the acronyms, abbreviations, and terms used in this Agreement have the respective meanings given to them in this Appendix A.

“Acceptance” has the meaning given to it in Section 3.1 of Appendix B, and “Accept”, “Acceptable” and “Accepted” will be similarly construed.

“Acts and Faults” means a Person’s performance, act, omission, negligence, misconduct, fraud, willful misconduct, criminal conduct, recklessness, bad faith, or breach of Law, Authorization or agreement (including, as applicable, this Agreement).

“Additional Facility” means each Authority Facility that the Operator proposes, at its discretion, to form part of the FBO Site, and that subsequently becomes part of the FBO Site, pursuant to Article 6 of the Agreement.

“Adverse Change in Law” means a Change in Law ~~initiated by the Authority~~ effected by Board Action that materially and adversely affects a Party’s rights or performance under this Agreement and:

- (a) is only applicable to: ~~(x) the Transaction and~~ Comparable Facilities and/or ~~(y) the Operator~~ (and not applicable to other Persons unless such Persons are Comparable Service Providers); or
- (b) prohibits or has the effect of prohibiting prosecution of any material portion of the Services and Work.

“Adverse Event” means those events described in Section 9.1 as Adverse Events.

“Aeronautical Charges” has the meaning given to it in Section 4.2.a.ii.

“Affiliate” means:

- (a) any Person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Operator or any of its members, partners, or shareholders holding a fifty percent (50%) or greater interest in the Operator; or
- (b) any Person for which fifty percent (50%) or more of the equity interest in such Person is held directly or indirectly, beneficially, or of record by the Operator or any Affiliate of the Operator under clause (a) of this definition, where for purposes of this definition the term "control" means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, family relationship, or otherwise.

“Agreement” has the meaning given to it in the preamble to this Agreement.

“Airport” means the Montgomery Regional Airport.

“Airport Account” shall mean a separate account or balance sheet maintained by the Authority for the receipt of Operating Revenues and any additional Authority Funds, and disbursement of Airport operating, maintenance, and Capital Project expenses.

“Airport Layout Plan” shall mean the airport layout plan for the Airport required by federal law and as approved by the FAA and the Authority and in force from time to time.

“Airport Master Plan” shall mean the master plan for the Airport as approved by the FAA and the Authority and in force from time to time.



"Allowable Operating Expenses" has the meaning given to it in Section 3.7.a.

"Annual Accounting" has the meaning given to it in Section 3.6.a.

"Annual Budget" shall mean the annual budget for operating and managing the FBO Facilities submitted by the Operator to the Authority for an Operating Year, which shall include a detailed projection of Operating Revenues and Allowable Operating Expenses for such Operating Year accompanied by the assumptions used to develop the Annual Budget.

"Annual Financial Report" has the meaning given to it in Section 4.4.

"Appendix" means an appendix attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

"Applicable ~~Law~~Laws" shall mean all laws, statutes, ordinances, rules, and regulations (including without limitation Environmental Laws) lawfully enacted, adopted, issued or promulgated by any Governmental Authority governing or otherwise applicable to the Airport (including Rules and Regulations adopted by the Authority), as any of the same may now exist or may hereafter be enacted, adopted, issued or promulgated, or amended, modified, extended, re-enacted, re-designated, or replaced from time to time, and judicial interpretations thereof.

"Appointment" has the meaning given to it in Section 1.3.1.a.

"Approval" has the meaning given to it in Section 3.1 of Appendix B, and "Approve" and "Approved" shall be similarly construed.

"Authority" means the Montgomery Airport Authority.

"Authority Assets" means the personal property/tangible assets of the Authority and its Subcontractors used in connection with operation, maintenance, and management of the Airport.

"Authority Default" has the meaning given to it in Section 11.2.1.

"Authority Facility" means each Airport facility owned and operated by the Authority.

"Authority Facilities and Assets" means, from time to time, the Authority Facilities, the Authority Assets, and all improvements made by the Authority of any and every kind whatsoever forming a part of the Authority Facilities.

"Authority Funds" shall mean any additional funds deposited by the Authority into the Airport Account as necessary and available for the operation, maintenance, and Capital Projects at the Airport.

"Authority IP Rights Purposes" means the purposes of:

- (a) at all times during the Term, complying with any Applicable ~~Law~~Laws or agreement binding on the Authority as of the Effective Date of which the Operator is or should be aware; and
- (b) at all times during the Term, performing either the Authority's obligations or exercising the Authority's rights under this Agreement or any subsequent agreement, including in connection with the preparation and delivery of (x) any document, report, Submittal, application, or other deliverable in connection with Applicable ~~Law~~Laws or (y) any grant, approval, or funding application to any Governmental Authority.

"Authority Indemnified Parties" has the meaning given to it in Section 10.2.2.a.



"Authorization" means any approval, certificate of approval, authorization, consent, waiver, variance, exemption, declaratory order, exception, license, filing, registration, permit, notarization, [Environmental Permit](#), or other requirement of any Person that applies to the FBO Facilities or is reasonably required from time to time for the Services and Work.

"Available Insurance" means any policy of insurance that the Operator has taken out and maintains or any other policy of insurance that the Operator is entitled to claim under as an additional insured.

"Baseline Standard of Practice" means the degree of skill, care, prudence, foresight, and practice that would reasonably and ordinarily be expected from time to time of a skilled and experienced professional general aviation services provider, engaged in the same type of activity or activities in North America as that of the Operator, or any other Person to which such term relates, never being less than the standard applied by the Operator or such Person, or any of its or their Affiliates, under the same or similar circumstances.

"Board" has the meaning given to it in recitals of this Agreement.

"Board Action" has the meaning given to it in Section 7.1.3.c.

"Business Day" shall mean any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State are authorized or required by Applicable ~~Law~~[Laws](#) to close.

"Capital Project" means, as further described in the Operator Scope of Work, any expenditure proposed by the Operator (and approved by the Authority) to acquire, purchase, or construct a single capital item or project for the purpose(s) of improving, developing, preserving, or enhancing the aeronautical functions of the Airport and having a cost in excess of Fifteen Thousand Dollars (\$15,000) and a useful life in excess of one (1) year.

"Capital Request" shall mean the list of capital expenditures proposed by the Operator to the Authority for the subsequent Operating Year, which shall contain the Operator's requirements for the FBO Facilities and equipment.

"Capital Work" has the meaning given to it in the Operator Scope of Work.

["Casualty Event" has the meaning given to it in Section 9.1.](#)

"Change of Control" means any direct or indirect Transfer of interests in the Operator that results in or could (upon the occurrence of any condition or exercise of any right or option) result in any change in the Person or Persons that has direct or indirect Control of the Operator.

"Change in Law" means the enactment of a new law or the modification, amendment or change in enforcement or interpretation of a law (including a change in the application or interpretation thereof) in each case, by a Governmental Authority, after the Effective Date that:

- (a) is materially different from or inconsistent with Applicable ~~Law~~[Laws](#) as in effect prior to the coming into effect of the relevant change as referenced above; and
- (b) was not (in the same or substantially similar form and substance to that which later comes into effect) pending, passed or adopted, including in the form of a bill or draft, as of such date, provided that Change in Law excludes any such enactment, promulgation, adoption, change or modification of any (x) labor law of general applicability or (y) Tax law of general applicability.



"Claim" means all claims, liability, out-of-pocket and documented costs or expenses, losses, fines, damages, penalty, or charge (including, without limitation: reasonable attorney fees and costs and any Tax losses) actually suffered or incurred by a Person and any demand, action, cause of action, suit, proceeding, arbitration, claim, judgment or settlement or compromise relating thereto.

"Commencement Date" has the meaning given to it in Section 1.2.a.i.

"Comparable Facilities" means, with respect to the FBO Facilities, a general aviation facility that is reasonably comparable to the FBO Facilities in terms of physical structure, capacity, and utilization.

"Comparable Service Provider" means with respect to the Operator, any general aviation services provider engaged in activities that are reasonably comparable to the Services and Work in terms of the nature of the services provided.

"Compensation Event" has the meaning given to it in Section 9.4.c.

"Control" means with respect to control of Person by another Person that such other Person (whether alone or with others, and whether directly or indirectly at any tier): (i) holds the majority of voting rights in the controlled Person; (ii) has the right to appoint the majority of the board of directors (or equivalent) of that controlled Person; and/or (iii) exercises direct or indirect control over that controlled Person's affairs.

"CPI" means the "Consumer Price Index – South region, all urban consumers, not seasonally adjusted", as published by the U.S. Department of Labor, Bureau of Labor Statistics.

"Day" means a calendar day, beginning at 12:01 a.m. in the Central Standard time zone of the United States coinciding with the calendar day.

"Delay Event" means those events described in Section 9.1 as Delay Events.

"Designated Senior Person" means such individual who is designated as such from time to time by each Party for the purposes of Article 13 by written notice to the other Party.

"Dispute Resolution Procedure" has the meaning given to in Section 13.2.a.

"Effective Date" has the meaning set forth in the preamble of this Agreement.

"Emergency" means a non-ordinary course situation that is urgent and calls for immediate action, which, if such action is not taken, is reasonably likely to result in:

- (a) imminent harm or physical damage to any or all of the Authority Facilities and Assets or any Person;
 - (b) material disruption to Airport operations, including access to and from any Authority Facilities and Assets; or
 - (c) an imminent threat to the long-term integrity of any part of the infrastructure of the Airport or to the Environment,
- in each case including any such event affecting the Services and Work that is recognized or declared as an emergency by the Governor of the State, the Federal Emergency Management Agency, the U.S. Department of Homeland Security or any other Governmental Authority with legal authority to recognize or declare an emergency.

"Employee" shall mean any direct employee, independent contractor, Subcontractor, vendor, supplier, or any other Person engaged by Operator to provide any portion of the Services and Work hereunder.



"Employee Fidelity Bond" has the meaning given to it in Section 10.3.1.

"Engineering or Institutional Controls" means those engineering, environmental, or institutional controls required or approved by a Governmental Authority in relation to the remediation or avoidance of a release of a Hazardous Material.

"Entities Having Jurisdiction" means, together and separately, Utilities, Governmental Authorities, regulatory authorities, and/or any other entity having jurisdiction pursuant to Applicable ~~Law~~Laws over any part of the ~~Transaction~~Services and Work or the Airport.

"Environment" means air, soils, submerged lands, surface waters (including wetlands), groundwaters, land, stream sediments, surface or subsurface strata, biological resources, including endangered, threatened and sensitive species, and natural systems, including ecosystems, historic, archeological and paleontological resources.

"Environmental Documentation" means the documentation ~~attached as~~listed in Exhibit E, ~~as amended in accordance with this Agreement.~~

"Environmental Laws" means any laws applicable to Authority Facilities and Assets, Airport operations, or the Services and Work regulating or imposing liability or standards of conduct concerning or relating to:

- (a) the regulation, use, or protection of human health or the Environment; or
- (b) the regulation, use, or exposure to Hazardous Materials.

"Environmental Permit" shall mean any permit, letter, clearance, consent, waiver, closure, exemption, decision or other governmental regulatory action required under or issued, granted, given, authorized by or made pursuant to Environmental Laws.

"Event of Default" means collectively, a Authority Default or an Operator Default.

"Excluded Work" has the meaning given to it in Section 2.3.2.a.

"Exhibit" means an exhibit attached hereto and incorporated in this Agreement, unless otherwise expressly indicated by the terms of this Agreement.

"Expiry Date" means the 5th anniversary of the Commencement Date; provided that, the Parties may extend the Expiry Date and therefore the Term in accordance with Section 1.2.b.

"Existing Agreements" means, as of the Effective Date, the existing hangar, tie-down, aircraft shelter, office lease, or other written agreements between the Authority and Airport tenants or users.

"Existing Improvements" means, as of the Effective Date, any and all physical improvements at the Airport owned by the Authority, including but not limited to the Fuel System, airfield pavement, hangars, aircraft tie-downs, aircraft shelters, offices, auxiliary buildings, utility infrastructure, pedestrian walkways, vehicle parking lots, and all fixtures reasonably connected to such improvements. The term "Existing Improvements" does not include any improvements constructed and presently owned by Airport tenants.

"FAA" shall mean the Federal Aviation Administration as presently constituted as a division of the U.S. Department of Transportation or its successor agency or agencies.



"FBO Facility" means each Authority Facility included in the FBO Site as of the Effective Date and each of the Additional Facilities included in the FBO Site pursuant to Article 6.

"FBO Records" means the full and complete records, books, documents, papers, databases, files, and other documentation of information relating to the ~~Transaction, the~~ Services and Work, and the Operator's performance of its obligations under this Agreement and the Subcontracts and each Subcontractor's performance under the Subcontracts to which it is a party, including:

- (a) as required by Applicable ~~Law~~ Laws to the extent it is applicable to FBO Records in the custody of any Operator Party as a matter of Law;
- (b) pursuant to the Baseline Standard of Care;
- (c) pursuant to GAAP, as applicable;
- (d) in accordance with this Agreement; and
- (e) copies of all Subcontracts, notices, correspondence, submissions, change, purchase or work orders, or other documents and materials expressly referenced as work product in this Agreement and each Subcontract.

"FBO Site" means the area described in Exhibit A, as amended from time to time in accordance with this Agreement.

"FBO Standards" means Minimum Standards and the standards, specifications, policies, procedures, and processes that apply to the Services and Work, as such may be modified from time to time in accordance with this Agreement.

"Final Budget" shall mean the Annual Budget that is approved by the Authority for a particular Fiscal Year. ~~Any changes or revisions to the Final Budget may only be made following the written approval of the Authority, as further described in Section 3.2.~~

"Financial Procedures Manual" has the meaning given to it in Section 4.1.

"Financial Summary" shall mean financial summary report prepared monthly by the Operator detailing the prior month's financial performance from operating the FBO Facilities, which shall also include year-to-date performance information, as further described in Section 3.5.

"Fiscal Year" shall mean the annual accounting period of the Authority for its general accounting purposes which, as of the Effective Date, is the twelve-month period ending with the last day of ~~{September}~~ of any year.

"Force Majeure" means any event beyond the reasonable control of the Operator and the Authority that delays, interrupts, or limits the performance of a Party's obligations hereunder that is an intervening act of a public enemy, war, invasion, armed conflict, or act of foreign enemy, blockade, revolution, act of terror, sabotage, civil commotions, interference by civil or military authorities, condemnation or confiscation of property or equipment by any Governmental Authority, explosion, nuclear, chemical or biological contamination or emissions (including as applicable associated radiation), fire, tornado, earthquake, weather event manifesting severe and historically unusual wind and/or liquid precipitation conditions directly affecting any part of the ~~Transaction~~ Services and Work, riot or other public disorder, epidemic, quarantine restriction, strike, labor dispute or other labor protest, stop-work order or injunction issued by a Governmental Authority, or governmental embargo, provided that such event or the cause thereof is not otherwise specifically dealt with in this Agreement



and excluding any event claimed by a Party to the extent such arises as a result of any Acts and Faults of or by such Party.

"Fuel" shall mean: (A) avgas meeting the specification for ASTM D910 and suitable for the aircraft fleet mix regularly utilizing the Airport; and (B) jet aircraft fuel meeting the specification of ASTM D1655 (latest revision) and any other quality specifications established by the Authority from time to time. The definition of Fuel specifically excludes automotive gasoline (mogas) and diesel.

"Fuel Revenues" has the meaning given to it in Section 4.2.a.iii.

"Fuel System" shall mean the Fuel storage and distribution facility at the Airport as such facility may change from time to time. The Fuel System as of the Effective Date is described and depicted in Exhibit A, which may be updated or amended from time to time in accordance with this Agreement to reflect any improvement or changes to the Fuel System.

"GAAP" shall mean generally accepted accounting principles in the United States consistently applied.

"Gallon" shall mean a U.S. gallon.

"Governmental Authority" means any United States federal, State, or local government, and any political subdivision of any of them, and any interstate, governmental, quasi-governmental, judicial, public, regulatory or statutory instrumentality, administrative agency, authority, body or entity of, or formed by, any such government or subdivision thereof, in each case other than the Authority.

"Grant Agreement" shall mean a written contract between the Authority and any of the following: (i) the United States of America, (ii) any federal agency or department, including but not limited to the FAA, (iii) any Governmental Authority, (iv) a not for profit Person, or (v) a private Person, in each case, for financial assistance for Capital Projects at the Airport, its operation, or its maintenance.

"GSE" means ground service equipment that is used at the Airport to service aircraft, including, but not limited to, during maintenance and other ground-based operations.

"Grant Assurances" has the meaning given to it in Section 14.3.1.a.

"Handback Date" means the Day immediately following either the Expiry Date or the date of termination of this Agreement.

"Hazardous Materials" shall mean and include any materials, substances, chemicals, or elements in any physical state (liquid, solid, gaseous/vapor) that are prohibited, limited, or regulated by Environmental Laws, or any other substances, chemicals, materials, or elements that are defined as "hazardous" or "toxic," under Environmental Laws, or that are known or considered to be harmful, hazardous, or injurious to the Environment or human health or safety.

"Incentive Fee" means []¹.

"Information" has the meaning given to it in Section 3.1 of Appendix B.

"Initial Term" has the meaning given to it in Section 1.2.a.ii.

"Intellectual Property" means all current and future legal and/or equitable rights and interests in or to know-how, patents (including applications), copyrights (including moral rights), trademarks (registered

¹ **Note to Proposers:** to be updated in line with the Proposal (as applicable).



and unregistered), service marks, trade secrets, designs (registered and unregistered), Utility models, circuit layouts, business and internet domain names, inventions, solutions embodied in technology, databases and data sets, and other intellectual activity and applications of or for any of the foregoing subsisting in or relating to the Services and Work, the Agreement, and any other data including algorithms, software, source code, and source code documentation used in connection with the Services and Work.

"Insurance Policies" has the meaning given to it in Section 10.1.2.

"Key Personnel" means the Employees of Operator listed in its Proposal, as replaced from time to time in accordance with the Agreement.

"Licensed Equipment" has the meaning given to it in Section 2.4.1.

"MAA" means the Montgomery Airport Authority.

"MAA-Designated Representative" has the meaning given to it in Section 7.1.1.

"Management Fee" ~~means []², as further described~~has the meaning given to it in Section 3.2.~~a.~~

"Management Services" has the meaning given to it in the Operator Scope of Work.

"MGM" means the Montgomery Regional Airport.

"Minimum Standards" means standards attached as Exhibit G, as amended from time to time.

"Modification" means a modification or change to the FBO Site or the Services and Work.

"Modification Agreement" has the meaning given to it in Section 6.2.a.

"Modification Proposal" has the meaning given to it in Section 6.1.a.

"Monthly O&M Disbursement" has the meaning given to it in Section 4.3.c.i.

"Negotiation Period" has the meaning given to it in Section 13.2.b.

~~**"Non-Reimbursable Non-Recurring Expenses"**~~ has the meaning given to it in Section 3.7.a.

~~**"Non-Recurring Expenses"**~~**"Operating Account"** has the meaning given to it in Section ~~3.7~~4.3.~~ab.~~

"Operating Revenues" has the meaning given to it in Section 4.2.b.

"Operating Surplus" means the excess of Operating Revenues over Allowable Operating Expenses and Uncontrollable Expenses during an Operating Year.

"Operating Year" shall mean the period of time beginning on the Commencement Date or each subsequent anniversary thereof and ending on the day before the following anniversary of the Commencement Date.

"Operations Period" has the meaning given to it in Section 1.2.a.ii.

"Operator" has the meaning given to it in the preamble to this Agreement.

"Operator Default" has the meaning given to it in Section 11.1.1.a.

² ~~**Note to Proposers:** to be updated in line with the Proposal.~~



"Operator-Designated Representative" has the meaning given to it in Section 7.1.1.

"Operator Equipment" shall mean the supplies and equipment needed to operate the FBO Facilities supplied, paid for and installed by the Operator.

"Operator Fidelity Bond" has the meaning given to it in Section 10.3.2.

"Operator Party" means, collectively, Operator, and any of Operator's officers, volunteers, representatives, agents, Employees, contractors, subcontractors, licensees, subtenants, or suppliers.

"Operator-Provided Intellectual Property" means all Proprietary Intellectual Property and Third-Party Intellectual Property.

"Operator Scope of Work" means the scope of work document attached as Exhibit D.

"Party" means a party to this Agreement and **"Parties"** means both of them.

"Party-Designated Representative" has the meaning given to it in Section 7.1.1.

~~**"Permits"** means any permit, license, temporary crossing agreement, or right of entry agreement issued, granted, or entered into by or with MAA, any Governmental Authority, or Utility in connection with the performance of any of the Operator's obligations under this Agreement.~~

"Permissible Area" means any area within which the Operator is allowed to place structural foundation, substructure, and other elements to construct an approved Capital Project.

"Person" means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, joint stock company, unincorporated association or other entity or a Governmental Authority, including each of the Operator and the Authority.

"Pre-Existing Environmental Condition" shall mean the presence in soil, rock, bedrock, sediment, surface water, groundwater, drinking water, or other environmental media (including soil vapors or gases) on, under, in, or around the FBO Site of any Hazardous Materials or any substance, material, or matter regulated under Environmental Laws or any substance, material, or matter for which liability or standards of conduct may be imposed under Applicable Laws and which the Operator demonstrates were present before the Commencement Date, and including any subsequent migration, movement, or transformation of such substances, materials, matter, or Hazardous Materials after the Commencement Date.

"Pre-Operations Coverages" has the meaning given to it in Section 10.1.1.a.

"Pre-Operations Milestones" has the meaning given to it in the Operator Scope of Work.

"Pre-Operations Period" has the meaning given to it in Section 1.2.a.i.

"Preferred Proposer" has the meaning given to it in the recitals of this Agreement.

"Prohibited Transfer" means, with respect to a Transfer:

- (a) the Transfer is prohibited by Law;
- (b) the Transfer proposes a transfer to a Person disqualified, suspended or debarred, or subject to a proceeding to suspend or debar, from bidding, proposing, or contracting with any Governmental Authority with jurisdiction;



- (c) the Transfer would in the Authority's reasonable determination materially diminish the Operator's ability to perform its obligations pursuant to this Agreement, and does not arise as a direct result of the following pre-approved classes of Transfers:
 - (i) a Transfer to an Affiliate of the Operator with the means, methods, and resources to perform the Services and Work and satisfy its obligations under the Agreement;
 - (ii) a transfer of interests or reorganization within a group of Persons, including the Operator, under common Control so long as there is no substantive change in the individual, entity or group of entities that ultimately have (individually or collectively) Control of the Operator;
 - (iii) a transfer of interests between trusts or managed funds that are under common beneficial ownership or control or the general partner or the manager (or the parent company of such general partner or manager) and any managed funds under common beneficial ownership or control with such general partner or manager (or parent company of such general partner or manager);
 - (iv) the creation of a trust or any other transaction or arrangement that is solely a transfer of all or part of the Operator's economic interest pursuant to this Agreement to another entity;
 - (v) a bona fide open market transaction in securities effected on a recognized public stock exchange, excluding such transactions involving an initial public offering of the Operator (whether through a direct offering or an offering of an intermediate holding company);
 - (vi) to the extent such transfers do not result in a Change of Control: (A) transfers made to employees as part of a bona fide employee compensation or incentive program; (B) a bona fide crowdfunding transaction in securities issued pursuant to an exemption from registration in compliance with the JOBS Act of 2012 or any equivalent or successor law; (C) a bona fide private resale of unregistered securities which resale is exempt under Section 4(a)(7) of the Securities Act of 1933 or as a "Section 4(a)(1-1/2)" transaction; or (D) a donation of legal, beneficial or equitable ownership interests in a Person to an independent non-profit organization registered with the State and exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code; or
- (d) such Transfer results in a Change of Control (other than as a result of a bona fide open market transaction in securities effected on a recognized public stock exchange) and the Authority has not accepted such transfer in advance, which acceptance may be made subject to the condition of the provision of reasonable additional security or other reasonable arrangements.

"Proposal" means the Operator's proposal in response to the RFP, attached hereto as Exhibit B.

"Proposed Supplemental Terms" has the meaning given to it in Section 1.3.2.a.ii.

"Proprietary Intellectual Property" means Intellectual Property, excluding Work Product, that:

- (a) is patented or copyrighted by the Operator prior to the Effective Date; or
- (b) if not patented or copyrighted, was either created (x) prior to the Effective Date or (y) after the Effective Date and which is held and managed as a trade secret or confidential, proprietary information by the Operator.

"Public Records Exempt Materials" has the meaning given to it in Section 12.2.a.

"Public Records Law" has the meaning given to it in Section 12.2.a.

"Quarterly Review" means the meeting held at least quarterly between the Authority and the Operator, as further described in Section 3.6.a, to discuss the Operator's operating and financial



performance hereunder, which shall be used as a forum to discuss matters which may include, but are not limited to, changes in operating procedures and conditions, capital, leasehold or equipment needs, customer service, rates and other subjects pertaining to the Operator's performance hereunder.

"Regularly Recurring Expenses" has the meaning given to it in Section 3.7.a.

"Relief Event" means each of an Adverse Event and a Delay Event, as further described in Section 9.1.

"Required Federal Provisions" has the meaning given to it in Section 14.3.3.

"Required Improvements" has the meaning given to it in the Operator Scope of Work.

"Renewal Term" has the meaning given to it in Section 1.2.b.

"Representative" means, with respect to any Person, any director, officer, employee, official, partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, Subcontractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its "Representative."

"Required Coverages" has the meaning given to it in Section 10.1.1.b.

"Retained Responsibilities" means those responsibilities retained by the Authority, as described in Section 4 of the Operator Scope of Work.

"RFP" means the request for proposals described in the recitals of this Agreement.

"Services and Work" means the Transition Consulting Services, the Management Services, and the Capital Work described in the Operator Scope of Work, as amended from time to time in accordance with this Agreement.

"Sponsor" means the public agency with control of a public use airport that undertakes the obligations to comply with the Grant Assurances.

"State" means the State of Alabama.

~~**"Subcontract"** means any contract (at any tier) entered into by the Operator, or a Subcontractor to it, in connection with the carrying out of the Services and Work or any of the Operator's obligations under this Agreement.~~

"Subcontractor" means, with respect to a Person, any contractor with whom such Person contracts to perform work or supply materials or labor in relation to the Transaction, including any Subcontractor of any tier, supplier or materialman directly or indirectly employed pursuant to a subcontract with a Subcontractor.

"Submittals" means any written document, drawing, report, plan, request, or other material or information, regardless of form and including any draft, required pursuant to this Agreement to be delivered, submitted, or resubmitted to the Authority, for approval, acceptance, any other consent, approval, or like assent, or information (excluding notices, correspondence, and invoices by the Operator seeking payments pursuant to this Agreement).

"Tax" means any federal, state, local or foreign income, gross receipts, commercial activity, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security,



unemployment, disability, real property, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

"Tenant Payments" has the meaning given to it in Section 4.2.a.i.

"Term" means the term of the Agreement referred to in Section 1.2.a.

"Third-Party Environmental Condition" shall mean the presence in soil, rock, bedrock, sediment, surface water, groundwater, drinking water, or other environmental media (including soil vapors or gases) on, under, in, or around the Airport of any Hazardous Materials or any substance, material, or matter regulated under Environmental Laws or any substance, material, or matter for which liability or standards of conduct may be imposed under Applicable Laws, and the presence of which Operator demonstrates were or are caused or permitted by any Person not affiliated with Operator or any Operator Party, whether or not such substances, materials, matter, or Hazardous Materials were or are present on, before, or after the Commencement Date.

"Third-Party Intellectual Property" means any Intellectual Property used or applied by the Operator in connection with the Services and Work which is owned by any Person other than the Authority or the Operator.

~~**"Transaction Total Consulting Price"**~~ has the meaning given to it in Section ~~1.3.13.1.a.~~

"Transaction Documents" means those documents consisting of this Agreement, including: this Agreement; each attachment to this Agreement (each Appendix or Exhibit); and any executed Modification Agreement or amendment.

"Transfer" means:

- (a) any sale, transfer, assignment, conveyance, or other disposal of any direct or indirect legal, beneficial or equitable ownership interests in a Person or changes in economic interests; or
- (b) any agreement, whether or not subject to the occurrence of any condition or exercise of any right or option, to effect any transaction specified in (a) of this definition, including any pledge, mortgage, grant of any security interest, lien or other encumbrance.

"Transition Consulting Services" has the meaning given to it in the Operator Scope of Work.

"TSA" means the Transportation Security Administration.

"Uncontrollable Expenses" shall mean the amount of the expenditures incurred by the Operator for or in connection with the FBO Facilities and the operation thereof by the Operator, agreed to by the Authority, which are not Allowable Operating Expenses included in the Final Budget.

"Unforeseen Endangered Species" means any animal or plant species listed as a threatened or endangered species under Applicable ~~Law~~ Laws that is encountered at the FBO Site, and the temporary, continual or habitual presence of such animal or plant species at the FBO Site: (a) was not otherwise disclosed to or known by the Preferred Proposer or an Operator Party and (b) could not have reasonably been known, identified, discovered, observed, or anticipated by the Preferred Proposer or any Operator Party undertaking due diligence pursuant to the Baseline Standard of Practice, in each case prior to the Commencement Date.



“Unforeseen Environmental Impairment” means any Pre-Existing Environmental Condition encountered at the FBO Site that: (a) was not otherwise disclosed to or known by the Preferred Proposer or an Operator Party and (b) could not have reasonably been known, identified, discovered, observed, or anticipated by the Preferred Proposer or any Operator Party undertaking due diligence pursuant to the Baseline Standard of Practice, in each case prior to the Commencement Date.

“Unforeseen Geological Impairment” means any subsurface geological, groundwater or structural condition or obstruction encountered within a Permissible Area that: (a) was not otherwise disclosed to or known by the Preferred Proposer or an Operator Party and (b) could not have reasonably been known, identified, discovered, observed, or anticipated by the Preferred Proposer or any Operator Party undertaking due diligence pursuant to the Baseline Standard of Practice, in each case prior to the Commencement Date.

“Unforeseen Historically Significant Remains” means any antiquities (including structures), fossils, coins, articles of value, cultural artifacts, human burial sites and remains and other similar remains of archaeological, historical, cultural or paleontological interest encountered within a Permissible Area that: (a) was not otherwise disclosed to or known by the Preferred Proposer or an Operator Party and (b) could not have reasonably been known, identified, discovered, observed, or anticipated by the Preferred Proposer or any Operator Party undertaking due diligence pursuant to the Baseline Standard of Practice, in each case prior to the Commencement Date.

“Utility” means a privately, publicly, or cooperatively owned line, facility, or system (including conduits and concrete structures in which utility lines are contained) for transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or other similar commodities, including wireless telecommunications, television transmission signals and publicly owned fire and police signal systems, which directly or indirectly serve the public. The necessary appurtenances to each Utility facility shall be considered part of such Utility.

“Year” means a calendar year.



Appendix B: Rules of Interpretation

The Agreement will be construed in accordance with this Appendix B, which contains rules governing interpretation, the giving of consents and approvals, and the resolution of conflicts between the Transaction Documents.

1. Construction and Interpretation of this Agreement

1.1. Integrated and Binding Agreement

- a. Subject to Section 14.6 of the Agreement, the Parties agree and expressly intend that this Agreement, which includes its Appendices and Exhibits and any valid amendments, constitutes a single, non-severable, integrated agreement whose terms are interdependent and non-divisible.
- b. Subject to the express terms of this Agreement, any term, condition, requirement, criteria, or specification set out or referenced in any part of this Agreement is a binding contractual obligation.

1.2. Deemed Incorporation of Provisions Required by Applicable ~~Law~~ Laws

Provisions required by any existing or future Applicable ~~Law~~ Laws to be inserted in this Agreement are deemed to be incorporated in this Agreement whether or not they appear in this Agreement or, upon application by either Party, this Agreement will be amended to make the insertion. In no event will the failure to insert any such provision before or after this Agreement is signed prevent the enforcement of such provision.

2. General Rules of Interpretation

2.1. Common Terms, Headings, and Other Internal References

- a. The singular includes the plural and vice versa.
- b. Words preceding "include", "includes", "including" and "included" will be construed without limitation by the words that follow.
- c. The verb "shall" has the same meaning and effect as the verb "will."
- d. The word "promptly" means as soon as reasonably practicable in light of then-prevailing circumstances.
- e. Headings are inserted for convenience only and will not affect interpretation of this Agreement.
- f. Except as the context may otherwise provide, the words "herein", "hereof" and "hereunder", and words of similar import, will be construed to refer to this Agreement in its entirety and not to any particular provision of it.
- g. Except as otherwise expressly provided or as the context may otherwise provide, a reference to any Section within this Agreement (including in the Appendices and Exhibits) is a reference to such Section of the Agreement (and not a Section within the Appendix or Exhibit).

2.2. References to Agreements, Documents, Laws, and ~~Permits~~ Authorizations

Except as otherwise expressly provided in this Agreement, a reference:

- a. to an agreement or other document will be construed to be a reference to such agreement or other document (including any schedules, annexes, or exhibits thereto) as it may be amended, modified, or supplemented from time to time pursuant to its terms; and
- b. to any Applicable ~~Law or Permit~~ Laws or Authorization will be construed as a reference to such Applicable ~~Law or Permit~~ Laws or Authorization as amended, replaced, consolidated, or re-enacted (as applicable) from time to time.



2.3. References to Persons

Except as otherwise expressly provided in this Agreement:

- a. a reference to a Person includes such Person's permitted successors, assigns, and transferees; and
- b. the words "they", "them", "themselves" and "their" when used to refer to a single Person or a grammatically singular antecedent will be construed to mean an individual regardless of gender identity.

2.4. Professional Language and Terms of Art

- a. Except as otherwise expressly provided in this Agreement or as the context may otherwise provide:
 - i. words and phrases not otherwise defined herein:
 - A. that have well-known insurance, engineering, construction, or specialized technical industry meanings will be construed pursuant to such recognized meanings where such meaning would be contextually appropriate; and
 - B. of an accounting or financial nature will be construed pursuant to GAAP, in each case taking into account the context in which such words and phrases are used;
 - ii. all statements of, or references to, dollar amounts or money, including references to "\$" and "dollars", are to the lawful currency of the United States of America;
 - iii. all references to digital or electronic media or communications, including similar or equivalent technology or services, that are used to facilitate the storage or dissemination of data or information as of the Effective Date, will be deemed to also reference any successor forms of technology that serve the same or equivalent purposes which come into existence or widespread use after the Effective Date; and
 - iv. all references to a Person's "cost and expense" or "costs and expenses" will be deemed to include all relevant third-party fees, costs, and expenses incurred by such Person, including for those of external legal counsel and other external advisors, provided that with respect to the Authority its "costs and expenses" will also include reasonable internal costs in the event such are incurred as a result of the Operator's Acts and Faults.
- b. All Services and Work completed under this Agreement will be measured in accordance with the United States standard measures, and all references to measurements in this Agreement will be construed in such manner.

2.5. References to Days, Times, and Deadlines

- a. All references in this agreement to "days" means calendar days, unless specifically modified to Business Days.
- b. Unless specified otherwise, all statements of or references to a specific time in the Agreement are to Central Standard Time.
- c. Whenever this Agreement requires either Party to make any payment, or provide or deliver any approval, consent, or like assent, notice, Submittal, comment or any information or material, or otherwise complete any action or performance, in each case on or no later than a date that is not a Business Day, then such deadline will automatically be extended to the next Business Day to occur after such date.

3. Consents and Reliance



3.1. Acceptance, Approval, and Information

Where this Agreement provides that any matter or information must be submitted to the Authority for its:

- a. "Acceptance", then the Authority shall give their determination in writing and may not unreasonably withhold its Acceptance, after having a reasonably sufficient opportunity to review and comment on such submission, where the only bases for withholding such Acceptance shall be if the Authority determines, acting reasonably, that the subject-matter of such submission:
 - i. does not comply with this Agreement;
 - ii. does not comply with any Applicable ~~Law or Permit~~ Laws or Authorization;
 - iii. is not made pursuant to, or otherwise is not compliant with, the Baseline Standard of Practice;
 - iv. would give rise to a material risk to the health or safety of any person, the Environment or Existing Improvements, the community or property; and/or
 - v. would have an adverse impact on:
 - A. the performance by the Operator of its obligations under this Agreement;
 - B. the rights of the Authority under this Agreement; and/or
 - C. the ~~Transaction~~ Services and Work,

(where any failure to respond within a time period expressly provided in this Agreement shall be deemed an Acceptance of such submission by the Authority);

- b. "Approval", then the Authority shall give its determination in writing and may reject such submission in its discretion (where any failure to respond within a time period expressly provided in this Agreement shall be deemed a rejection of such submission by the Authority); and
- c. "Information", then no Acceptance, Approval, or other consent, approval or like assent, is required and the matter or information is being submitted for the Authority's information, review, and/or comment only.

3.2. Default Standard for Consents, Approvals, and Like Assent

- a. Except as otherwise expressly provided in this Agreement, where this Agreement provides that any consent, approval, or like assent:
 - i. will not be "unreasonably withheld" by a Person, then it will not be unreasonably withheld, delayed, or made subject to the imposition of unreasonable conditions by such Person, and "unreasonably withhold" will be similarly construed; and
 - ii. is to be made or given in the "discretion" of a Person, it will be made or given only in the sole and absolute discretion of such Person (which discretion includes the ability to refrain from giving, or to impose conditions on, such consent, approval, or like assent).
- b. Where this Agreement requires one Party to provide a consent, approval, or like assent to the other Party and no express standard for such consent, approval, or like assent is given, then such consent, approval or like assent will be in writing and:
 - i. with respect to the Operator, not be unreasonably withheld; and
 - ii. with respect to the Authority, be in its discretion.

- c. Furthermore, except as otherwise expressly provided in this Agreement, any failure by the Authority to timely respond to any request for approval will be deemed a rejection by the Authority and not a breach of any Authority obligation to respond.

3.3. Limited Operator Reliance

- a. The Operator may rely on approvals, any other consent, approval, or like assent, and any notice, from the Authority only for the limited purposes of establishing that the approvals, or any other consent, approval, or like assent occurred or any notice was given. Any such consent, approval, or like assent, and any notice, by the Authority, is otherwise for the sole benefit of the Authority.
- b. Except as otherwise expressly provided in this Agreement, no: (a) approval, other consent, approval, or like assent, or notice; (b) comment, review, certification, concurrence, verification, or oversight; (c) agreement to resolution of any claim; or (d) payment; or the absence of any of the foregoing (a)-(d), will in any case:
 - i. be deemed or construed as any kind of representation or warranty, express or implied, by the Authority, or be relied upon by the Operator in determining whether the Operator has satisfied the requirements of this Agreement;
 - ii. relieve the Operator from, or diminish the Operator's liability for, the performance of its obligations under this Agreement;
 - iii. estop or prevent the Authority from subsequently exercising its rights under this Agreement without being bound by the manner in which they previously exercised (or refrained from exercising) such rights;
 - iv. prejudice the Authority's rights against the Operator, whether under this Agreement, including any cause of action it may have arising out of this Agreement, or Applicable ~~Law~~Laws;
 - v. constitute a waiver of any rights under this Agreement of any legal or equitable right of the Authority or of any other Person; and
 - vi. be asserted by the Operator against the Authority as a legal or equitable defense to, or as a waiver of or relief from, the Operator's obligation to fulfill the requirements of this Agreement.
- c. To the maximum extent permitted by Applicable ~~Law~~Laws, the Operator hereby releases, acquits, and discharges the Authority from any and all duty and obligation to cause the Services and Work to satisfy the standards and requirements of this Agreement.

4. Resolution of Conflicts

4.1. Standards for Resolving Conflicts and Inconsistencies

- a. If there is any conflict, ambiguity, or inconsistency between or among any provision(s) of the Agreement that cannot be reconciled by reading all relevant provisions of the Agreement as mutually explanatory of one another, then the order of precedence will be as follows:
 - i. a Modification Agreement or written amendment to this Agreement signed by both Parties, but only with respect to such portion of the Agreement that it expressly modifies;
 - ii. this Agreement (including for such purposes Appendices A and B);
 - iii. all other Exhibits (excluding the Proposal);
 - iv. the Proposal provided that in the event of any conflict, ambiguity or inconsistency between or among the provisions of this Agreement (including any referenced FBO

- Standards) with an equal order of precedence which cannot otherwise be resolved, the most stringent requirement will take precedence;
- v. except as otherwise expressly provided in this Agreement, where this Agreement cites any external document to define requirements of this Agreement, the cited portion of the applicable external document will be deemed incorporated into this Agreement to the extent it is so cited and have the same order of priority as the part of this Agreement where the citation is made;
 - vi. on plans, working drawings and standard plans, written or calculated dimensions take precedence over scaled dimensions;
 - vii. notwithstanding anything to the contrary contained in this Agreement, in the event of any conflict, ambiguity, or inconsistency between or among any applicable requirement under Applicable ~~Law~~Laws and any other requirement of this Agreement, the applicable requirement under Applicable ~~Law~~Laws will take precedence; and
 - viii. additional or supplemental requirements that the Operator is required to comply with pursuant to this Agreement (including such requirements pursuant to any of the FBO Standards) with a lower order of precedence relative to other parts of this Agreement as determined pursuant to this Section will be given effect except to the extent such requirements conflict or are inconsistent with, or otherwise create an ambiguity in relation to, the provisions contained in a part of this Agreement with a higher order of precedence.
- b. Subject only to the Operator's express rights under this Agreement, omissions or the misdescription of details of the Services and Work in this Agreement which omissions or details are necessary to carry out the intent of the Agreement, or that are customarily performed by the Operator in accordance with the Baseline Standard of Care, will not themselves relieve the Operator from the obligation to perform such omitted Services and Work or otherwise entitle the Operator to additional time for performance or any compensation.
- 4.2. Changes to the FBO Standards**
- a. The Operator shall comply with any change or addition to, or replacement of, an FBO Standard as and when directed in writing by the Authority or, without such direction, as otherwise necessary for the Operator to maintain compliance with Applicable ~~Law~~Laws or any other obligation under this Agreement.
 - b. The Operator shall comply with any change or addition to, or replacement of, an FBO Standard under such circumstances without any resulting entitlement to an extension of time, relief, and/or compensation.

4.3. Special Provisions with Respect to the Proposal

Incorporation into this Agreement of any part of the Proposal will not:

- a. limit, modify, or alter the Authority's rights to review and approve any Submittal;
- b. be deemed as acceptance or approval of any part of the same by the Authority as conforming with the requirements of this Agreement; and
- c. waive application of Section 4.1 of this Exhibit.
- d. If any part of the Proposal and/or any approved Submittal includes statements, terms, concepts, or designs that can reasonably be interpreted as commitments or offers acceptable on award of this Agreement or approval of the Submittal:



- i. to provide higher quality items, materials, designs, or products than otherwise required by this Agreement;
 - ii. to adhere to more stringent requirements than otherwise required by this Agreement; and
 - iii. to perform services or meet standards in addition to or better than those otherwise required under this Agreement,
- ~~iii.~~ then the Operator's obligations hereunder will include compliance and performance in accordance with such statements, terms, concepts, and designs.
- e. The Operator is responsible for any omissions from any approved Submittal and for any misdescription by it of details of the Services and Work that are necessary to carry out the intent of this Agreement.



Exhibit A: Description of the FBO Site and Fuel System

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= **Note to Proposers:** this Exhibit will be updated ~~by Addendum and otherwise~~ prior to execution to reflect the FBO Site and the Fuel System.



Exhibit B: Proposal

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⁴³₌ **Note to Proposers:** this Exhibit will incorporate the Proposal.

Exhibit C: Representations and Warranties of the Parties

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1. OPERATOR REPRESENTATIONS AND WARRANTIES

Without superseding, limiting, or restricting any other representation or warranty set forth elsewhere in the Agreement, or implied by operation of law, the Operator hereby represents and warrants to the Authority that each of the following representations and warranties made by it and set out below are true and correct as of the Effective Date.

1.1. Organization, Power, and Authority

- a. The Operator is [entity type] , validly existing and formed pursuant to the laws of [state of formation], with all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted under this Agreement.
- b. The Operator is duly qualified to do business in the State, and is in good standing in the State and, as applicable, its state of formation.
- c. As of the Effective Date, the Operator has full power, right, and authority to execute and deliver and perform this Agreement, and to perform all of the Operator's obligations provided for under this Agreement.

1.2. Authorization and Due Execution

- a. Each Person executing this Agreement on behalf of the Operator has been duly authorized to execute and deliver this Agreement on behalf of the Operator.
- b. The execution, delivery, and performance of this Agreement by the Operator has otherwise been duly authorized by all necessary action of the Operator.
- c. This Agreement has been (or, at the time of execution and delivery, will have been) duly and validly executed and delivered by the Operator.

1.3. No Conflicts

The execution, delivery, and performance by the Operator of this Agreement does not and will not contravene, or result in breach or default under, any:

- a. Applicable Laws that is in effect on the date of execution and delivery of this Agreement;
- b. organizational, corporate, or other governing documents of the Operator; or
- c. agreement, instrument, permit, approval, judgment, or decree to which the Operator is a party or is bound.

1.4. No Breach; No Litigation

- a. The Operator has not received any communication or notice (written or oral) that alleges the Operator is not in full compliance with all Applicable Laws, or Authorizations in connection with the Services and Work, and, to the knowledge of the Operator, there are no circumstances that may prevent or interfere with full compliance in the future.
- b. There is no action, suit, proceeding, investigation, or litigation pending and served on the Operator that challenges:

⁵ ~~Note to Proposers: this Exhibit will be updated by Addendum.~~



- i. The Operator's authority to execute, deliver or perform, or the validity or enforceability of, this Agreement;
- ii. The Operator's assets, properties, or operations, as they relate to the Services and Work; or
- iii. the authority of the Operator's Representative to execute this Agreement.
- c. Operator has disclosed to the Authority any pending and un-served or threatened action, suit, proceeding, investigation, or litigation with respect to such matters that Operator is aware or should be aware of after reasonable inquiry and investigation.

1.5. Debarment; Anti-money Laundering, etc.

- a. None of the Operator, any of its principals (being any officer, director, or other direct or indirect owner, partner, employee (including Key Personnel) or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Operator) or, to the Operator's knowledge after reasonable inquiry, any of its Subcontractors engaged as of the Effective Date, are presently disqualified, suspended or debarred from bidding, proposing or contracting with any local, state-level, interstate, or federal Governmental Authority.
- b. Furthermore, none of the Operator, nor any of its Subcontractors engaged as of the Effective Date, are listed on any of the following lists or their successors: the Specially Designated Nationals List; the Denied Persons List; the Unverified List; the Entity List or the Debarred List; the General Service Administration's System for Award Management; or any other list of Persons with which the Authority or the State may not do business pursuant to Applicable Laws.
- c. The Operator is not in violation of:
 - i. any applicable United States anti-money laundering laws, including those contained in the Bank Secrecy Act and the regulations promulgated thereunder;
 - ii. any applicable economic sanction laws administered by Office of Foreign Assets Control of the United States Department of the Treasury (OFAC) or by the United States Department of State; or
 - iii. any applicable United States anti-drug trafficking, anti-terrorism, or anti-corruption laws, civil or criminal.
- d. The Operator is not a Person:
 - i. that is charged with, or has reason to believe that it is under investigation for, any violation of any such laws;
 - ii. that has been convicted of any violation of, has been subject to civil penalties pursuant to, or had any of its property seized or forfeited under any such laws;
 - iii. that is owned, controlled by, or affiliated with any Person identified in the foregoing clauses of this Section 1.5 of Exhibit C; or
 - iv. that is in violation of any obligation to maintain appropriate internal controls as required by the governing laws of the jurisdiction of such Person as are necessary to ensure compliance with the economic sanctions, money laundering and anti-corruption laws of the United States and the jurisdiction where the Person resides, is domiciled, or has its principal place of business.

1.6. Additional Legal Assurances



- a. Prior to the Effective Date and in accordance with the RFP, the Operator disclosed to the Authority in writing all organizational conflicts of interest (as described in the RFP) of which it was aware and, since such date, Operator has not obtained knowledge (having made reasonable inquiries to obtain such knowledge) of any additional such organizational conflict of interest.
- b. The Operator has not undertaken or otherwise permitted any unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration in connection with this Agreement and its procurement.
- c. The Operator has not employed nor retained any company or Person, other than a bona fide employee working solely for the Operator, to solicit or secure this Agreement. Further, the Operator has not paid nor has it agreed to pay any company or Person, other than a bona fide employee working solely for the Operator, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.
- d. The Operator has fully complied with all requirements and restrictions of State and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and will require that each of its Subcontractors and each of their respective Subcontractors will comply with the same.
- e. The Operator has not, in the past three (3) years, been convicted of or had a civil judgment rendered against it for:
 - i. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (e.g., federal, state or local) transaction or public contract;
 - ii. violation of federal or state antitrust statutes; or
 - iii. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, and the Operator is not presently indicted for or otherwise criminally or civilly charged by a Governmental Authority with commission of any of the foregoing offenses.
- f. The Operator has not, in the past three (3) years, had one or more public transactions (federal, state, or local) terminated for cause or default.
- g. The Operator has all Intellectual Property rights necessary to comply with its obligations under Section 2.6 of the Agreement without giving rise to any Claim, including for infringement, by any third party.

2. MAA REPRESENTATIONS AND WARRANTIES

The Authority represents, warrants, and covenants to the Operator that each of the following representations and warranties made by it and set out below are true and correct as of the Effective Date:

- a. the Authority is a public corporation and airport authority, organized and validly existing pursuant to the provisions of Chapter 3 of Title 4 of the Code of Alabama (Code of Ala. §§4-3-1 to 4-3-80), and as such has and shall have all the rights and



powers which are now or may be hereafter provided by the Constitution and laws of the State;

- b. as of the Effective Date, the Authority has full power, right, and authority to execute, deliver, and perform this Agreement and to perform all of the Authority's obligations provided for under this Agreement;
- c. each person executing this Agreement on behalf of the Authority has been duly authorized to execute and deliver this Agreement on behalf of the Authority;
- d. this Agreement has been duly executed and delivered by the Authority; and
- e. this Agreement has been duly authorized by the Authority and constitutes a legal, valid, and binding obligation of the Authority enforceable against the Authority in accordance with its terms.



Exhibit D: Operator Scope of Work

The Services and Work under this Agreement shall comply with, and the Operator shall perform its obligations and (where relevant) will require each Subcontractor to perform its respective obligations under the Agreement, the other Transaction Documents, and the Subcontracts in accordance with this Exhibit D⁶⁴.

1. Transition Consulting Services

- a. During the Pre-Operations Period, the Operator will provide services related to assessment and mobilization of FBO operations at the Airport, with particular emphasis on the transition from operations of the Incumbent FBO under the Lease Agreement to Authority ownership and operation under this Agreement. Such services (the "Transition Consulting Services") will be designed and implemented to achieve uninterrupted service to the public during mobilization of the FBO at the Airport. The Transition Consulting Services ~~may~~ include, but shall not be limited to:
 - i. assessment of existing facilities on the FBO Site, including a Phase 1 environmental review of the FBO Site;
 - ii. consultation with the Authority on operating and capital budgets;
 - iii. inventory of Authority-owned equipment and necessary acquisitions prior to the Operations Period;
 - iv. evaluation of existing subleases on the West Ramp and East Ramp;
 - v. coordination with existing tenants of the Incumbent FBO for potential transition of tenancy to the Authority; and
 - vi. preparation of all customary plans and reports in respect of the Services and Work, including without limitation: a capital investment and fixed improvements plan; and
 - vii. preparation of the Financial Procedures Manual in accordance with Section 4.1 of the Agreement.
- b. To receive a notice to proceed (NTP) to commence the Operations Period, the Operator must satisfactorily complete certain conditions precedent to commencement of the Operations Period (the "Pre-Operations Milestones") in accordance with this Agreement. The Pre-Operations Milestones will include, without limitation, the following:
 - i. the Operator performs an initial inspection of the FBO Site;
 - ii. the Operator completes all activities required for mobilization and transition of the FBO, as determined by the Authority in its reasonable discretion;
 - iii. the Operator delivers each Submittal required to be delivered in accordance with the Agreement;
 - iv. the Operator completes all activities related to the training and mobilization of staff;
 - v. the Operator obtains approval for and executes all agreements required for performance of the Services and Work;
 - vi. the Operator obtains all ~~Permits and~~ Authorizations applicable to commencement of the Services and the Work; and

⁶⁴ **Note to Proposers:** this Exhibit may be further updated by Addendum and otherwise in accordance with RFP Section 14.2.a.



- vii. the Operator has provided to the Authority any documents, security, or assurances as required by the Agreement as a condition of commencement of the Operations Period.

2. Management Services

The "Management Services" will consist of all work, services, and activities to be performed, furnished, or undertaken by the Operator, for provision and management of the FBO at the Airport on behalf of the Authority. Such services will include:

- a. delivery and dispensing of avgas, jet fuel, and aircraft lubricants;
- b. line services and support;
- c. aircraft ramp services, including towing, parking guidance, tie-down, and related services;
- d. aircraft removal and assistance to disabled aircraft;
- e. aircraft hangar storage and management of Authority hangar tenants;
- f. aircraft de-icing, including the storage and disposal of all captured de-icing fluid;
- g. operation and management of the Fuel System, including acquisition and maintenance of applicable certificates;
- h. routine maintenance of Authority-owned equipment, including fuel facilities;
- i. audit, inspection, and record retention duties;
- j. passenger and pilot facility management;
- k. SASO service support;
- l. flight planning and information services;
- m. financial management and related reporting obligations, including preparation of an annual operating budget and collection and remittance of applicable fees to Authority;
- n. emergency response duties;
- o. ongoing marketing and economic development efforts;
- p. provision of all personnel for all operations and management functions; and
- q. any other required services set forth in the Minimum Standards.

3. Capital Work

3.1. Overview of Capital Work

During the Operations Period, the Operator will complete required improvements to the FBO Site (the "Required Improvements"). At its option, the Operator will also have the ability to undertake additional capital work, to include new construction, renovation, and expansion projects as proposed in the Capital Investment and Fixed Improvements Plan submitted in accordance with the RFP (as approved by the Authority, the "Capital Projects"). The "Capital Work" includes the Required Improvements and any Capital Projects that are approved by the Authority as provided herein.

3.2. Required Improvements to the FBO Site and Proposed Capital Improvement Projects

- a. The Required Improvements will include all work to bring the FBO Site into compliance with the Minimum Standards and a state of good repair, including the following:
 - i. in consultation with the Authority, demolition or complete rehabilitation of the FBO Facilities on the FBO Site that appear to have reached the end of their useful life;
 - ii. for the remaining FBO Facilities:
 - A. restoration or replacement of roofs, as applicable;
 - B. necessary structural repairs;
 - C. replacement or refurbishment of mechanical systems;
 - D. replacement or refurbishment of doors and windows; and
 - iii. pavement repair.



- b. The Capital Projects, if any, will include fixed improvements to optimize the FBO Site to meet the following Authority goals:
 - i. elevate the customer experience by providing outstanding customer service along with related industry-leading technologies;
 - ii. identify opportunities to modernize the FBO Site to offer state-of-the-art facilities with world-class amenities and to increase capacity and enhance security;
 - iii. increase Airport revenues through innovation and improved operational efficiency;
 - iv. promote increased flight activity and volume of fuel sales;
 - v. introduce cost controls to FBO operations while maintaining and/or improving customer service, safety, and revenue growth; and
 - vi. coordinate and collaborate with key stakeholders to ensure smooth, continuous services and operations.

4. Responsibility Matrix

Remainder of page intentionally left blank. Responsibility Matrix follows on the next page.



Responsibility Matrix

Operations, Maintenance, and Management Responsibilities	Authority Responsibility	Operator Responsibility	Shared Responsibility
Required Operations (Conducted on Behalf of Authority)			
(i) Hangar storage for general aviation aircraft and tie down services on aprons as may be reasonably designated by the Authority within the FBO Site;		X	
(ii) Negotiation of tenant leases for any FBO Facilities and Assets		X	
(iii) Development of rates and charges pricing for leasing/subleasing of the FBO Facilities and Assets		X	
(iv) Adequate ramp service for general aviation aircraft users with qualified personnel available on the ramp 24 hours a day, seven (7) days a week, including equipment and personnel capable of removing disabled aircrafts from runways and taxiways; provided that, the term "adequate service" as applied to night time or non-regular hours allows provision of services with less than the full regular staff of personnel as may be commensurate with the average needs of general aviation at such times;		X	
(v) Sale of aviation gasoline, fuel, oils, and lubricants of kinds customarily sold to general aviation aircraft users;		X	
(vi) Day-to-day retail Fuel pricing		X	
(vii) Maintenance, repair, and servicing of general aviation aircraft, aircraft engines, and parts normally provided by FBOs at Comparable Facilities;		X	
(viii) Maintenance of adequate inventory of the necessary aircraft parts and accessories to maintain, repair, and service general aviation aircraft normally provided by FBOs at Comparable Facilities; and		X	
(ix) Provision of aircraft crew lounge, telephone, and rest room facilities.		X	
Maintenance Obligations (To be Funded from ~~Operating~~ <u>Annual</u> Budget)			
(i) Day-to-day maintenance of the facilities required by and in accordance with the Minimum Standards;		X	
(ii) Undertaking improvements that keep the FBO Site in efficient operating condition;			X
(iii) Upkeep of the FBO Site in good, sanitary, and neat order and condition; and		X	
(iv) Protection of the FBO Site though routine maintenance and/or incidental repairs.		X	



Release of ~~August 26~~ October 7, 2025
 Attachments to FBO Services Agreement

Operations, Maintenance, and Management Responsibilities	Authority Responsibility	Operator Responsibility	Shared Responsibility
Recordkeeping and Financial Reporting Obligations			
(i) Recordkeeping in accordance with Article 12 of the Agreement		X	
(ii) Financial reporting and recordkeeping in accordance with Articles 3 and 4 of the Agreement		X	
Capital Work			
Retained Responsibilities			
(i) Undertaking major capital repairs to the FBO Facilities, except as otherwise agreed with Operator	X		
(ii) Review and final execution of leases of any FBO Facilities and Assets	X		
(iii) Review and approval of any bulk Fuel contracts	X		
(iv) Review and promulgation of annual rates and charges schedule for rentals and use of FBO Facilities and Assets	X		
(v) Promulgation of other rates and charges at the Airport (e.g., fuel flowage and landing fees)	X		



Exhibit E: Environmental Documentation

~~[-]~~⁷

The Operator acknowledges and agrees that the following Environmental Documentation has been separately provided to the Operator:

- (1) Q4 2022 Facility Condition Assessment Report; and
- (2) MGM Pavement Management Plan Implementation Report (finalized October 2024).

⁷ ~~Note to Proposers: this Exhibit will be updated by Addendum.~~



Exhibit F: Insurance Requirements⁸

~~1. General Requirements~~

~~a.~~ Before commencing the Services and Work, the Operator must provide certificates of insurance to show that the minimum coverages and limits set forth in this Exhibit by ~~furnish~~furnishing the Authority with certificates of insurance and with original endorsements. The certificates and endorsements for each ~~policy of the Insurance Policies~~ must be: (1) signed by a person authorized by the Operator's insurer to bind coverage on its behalf. ~~The certificates and endorsements are to be~~ and (2) received and approved by the Authority before ~~work commences under the Agreement~~commencement of the Services and Work.

1. General Requirements

- a. ~~b.~~ Pre-Operations Coverages and Required Coverages must be placed with Alabama admitted insurers rated A- or better by A.M. Best's rating service, or as otherwise approved by the Authority. All policies being provided by the Operator (with the exception of the worker's compensation policy) must name the Authority as additional insured.
- b. ~~c.~~ Furthermore, the Authority and its members, directors, officers, employees, agents, and consultants are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Operator; products and completed operations of the Operator; premises owned, leased, or used by the Operator or premises on which the Operator is performing services on behalf of the Authority. The coverage shall contain no special limitations on the scope of protection afforded to the Authority and its members, directors, officers, employees, agents, and consultants.
- c. ~~d.~~ Within 30 Days of receipt of a written request by the Authority, the Operator shall deliver to the Authority a certificate of insurance with respect to each policy required to be provided pursuant to this Agreement. The Operator shall furnish the Authority with one copy of all certificates showing the types, amount, and class of operations covered, effective dates, and dates of expiration of policies.
- d. ~~e.~~ The ~~policies evidencing Required Coverages~~Insurance Policies shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after 30 Days' prior written notice has been given to the Authority.
- e. ~~f.~~ All ~~insurances~~Insurance Policies required of and/or provided by the Operator shall be primary and non-contributing with any other insurance. The insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy. Any insurance or self-insurance maintained by the Authority and its boards, commissions, committees, officers, agents, employees, and volunteers shall be in excess of the Operator's insurance and shall not contribute with it.
- f. ~~g.~~ Each ~~policy~~Insurance Policy obtained by the Operator shall: (1) include a waiver of any right of subrogation against the additional insured (and their respective members, directors, officers, employees, agents, and consultants).
- g. ~~h.~~ The insurance coverage provided herein by the Operator ~~for the benefit of the Authority~~ shall be in addition to all other remedies available to the Authority and shall not limit the indemnity obligations of the Operator set forth in this Agreement. The Operator shall name the

⁸ ~~Note to Proposers: Under review and may be updated by Addendum.~~



Authority as an additional insured by endorsement on all ~~policies~~ Insurance Policies required herein except for Worker's Compensation.

- h. ~~i.~~ The Operator agrees that the Required Coverages which are required to be in place upon the Effective Commencement Date shall be maintained at such earlier time as may reasonably be required by the Authority based upon the activities of the Operator and/or the equipment placed and/or installed at any Authority Facility prior to the Effective Date.
- i. Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, the Pre-Operations Coverages and Required Coverages shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority and its members, directors, officers, employees, agents, and consultants; or the Operator shall procure a bond guaranteeing payment of losses, related investigation, claim administration, and defense expenses.
- j. The Operator shall include each of its Subcontractors as insureds under the policies of insurance required herein.

2. Insurance Limits for Pre-Operations Coverages

Without limiting any of the other obligations or liabilities of the Operator, on and from the ~~Operator will~~ Effective Date, during the ~~Term of and at all times while providing Services and Work under the Agreement (and for 24 months thereafter with respect to environmental impairment liability)~~ Pre-Operations Period, and during any time period following expiration of this Agreement if the Operator is required to return and perform any additional work, the Operator will procure and maintain in force, or cause to be procured and maintained in force, at its own expense, the Pre-Operations Coverages as follows:

- a. **Comprehensive General Liability:** general liability insurance having all major divisions of coverage, including: Premises and Operations Liability, Products and Completed Operations Liability, Personal Injury Liability, and Contractual Liability. The policy shall be written on an ISO occurrence form (current edition as of the date of this Agreement or equivalent) and limits shall not be less than:
 - i. \$1,000,000 per Occurrence
 - ii. \$2,000,000 General Aggregate
 - iii. \$2,000,000 Products/Completed Operations Aggregate
 - iv. \$1,000,000 Personal and Advertising Injury per Occurrence
- b. **Commercial Automobile Liability Insurance:** automotive liability insurance covering all motor vehicles, including: Owned/Leased and Hired/Non-owned coverage. Limits of coverage shall not be less than \$1,000,000 combined single limits for each occurrence. Coverage must be rated for vehicles transporting hazardous materials.
- c. **Workers' Compensation and Employers' Liability Insurance:** workers' compensation coverage with benefits and monetary limits as set forth in Alabama statutes, including coverage for Employer's Liability with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and a policy limit of \$1,000,000 by disease. Workers' Compensation coverage is required as a condition of performing work or services for the Authority whether the Operator is otherwise required by Applicable Laws to provide such coverage.
- d. **Professional Liability (Errors & Omissions) Liability Insurance:** the minimum requirement shall be not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Unless otherwise

specified, the limits of liability shall be dedicated to this project and no sharing of occurrence or aggregate limits will be permitted.

- e. **Excess/Umbrella Liability:** the foregoing Commercial General Liability, Commercial Automobile Liability Insurance, or Employers' Liability Insurance limits in this Section 2 of Exhibit F may be accomplished through a combination of primary and excess/umbrella liability policies written on a follow-form basis. The excess/umbrella liability coverage shall be included on the certificate of insurance and the certificate holder shall be included as an additional insured.

3. Insurance Limits for Required Coverages

On and from the Commencement Date, during the Operations Period (and for 24 months thereafter with respect to environmental impairment liability), and during any time period following expiration of this Agreement if the Operator is required to return and perform any additional work and without limiting any of the other obligations or liabilities of the Operator, the Operator will procure and maintain in force, or cause to be procured and maintained in force the Required Coverages as follows:

- a. **Comprehensive General Liability:** general liability insurance having all major divisions of coverage, including: Premises ~~and~~ Operations Liability, Products and Completed Operations, Liability, Personal Injury Liability, and Contractual Liability. The policy shall be written on an ISO occurrence form (current edition as of the date of this Agreement or equivalent) and limits shall not be less than:
 - i. \$50,000,000 per Occurrence
 - ii. \$50,000,000 General Aggregate
 - iii. \$50,000,000 Products/Completed Operations Aggregate
 - iv. \$25,000,000 Personal Injury
 - v. \$50,000,000 Contractual Liability
 - vi. \$50,000,000 Premises Legal
 - vii. \$3000 Medical Expense Limit
 - viii. \$25,000,000 Host Liquor Liability
- b. **Commercial Automobile/~~Umbrella~~ Liability Insurance:** automotive liability insurance covering all motor vehicles, including: Owned/Leased and Hired/Non-owned coverage. Limits of coverage shall not be less than \$1,000,000 ~~per~~ combined single limits for each occurrence. Coverage must be rated for vehicles transporting hazardous materials.
- c. **Workers' Compensation and Employers' Liability Insurance:** workers' compensation coverage with benefits and monetary limits as set forth in Alabama statutes, including coverage for Employer's Liability with limits of at least \$1,000,000 each accident, \$1,000,000 each employee by disease, and a policy limit of \$1,000,000 by disease. Workers' Compensation coverage is required as a condition of performing work or services for the Authority whether the Proposer is otherwise required by Applicable ~~Law~~ Laws to provide such coverage. For certainty, the costs of carrying Workers' Compensation and Employer's Liability Insurance are the sole responsibility of the Operator and shall not be an Allowable Operating Expenses. The Operator shall maintain such Workers' Compensation and Employer's Liability Insurance at its own expense.
- d. **Airport General Liability Insurance:** the minimum requirement shall be \$20,000,000 per occurrence and \$20,000,000 aggregate.
- e. **Hangar Keepers Liability:** the minimum requirement shall be \$20,000,000 aggregate.
- f. **Non-Owned Aircraft Liability:** the minimum requirement shall be \$50,000,000.



- g. **Environmental Impairment Liability:** the minimum requirement shall be \$1,000,000 per occurrence and \$2,000,000 aggregate.

~~3. Deductibles and Self-Insured Retentions~~

~~Any deductibles or self-insured retentions must be declared to and approved by the Authority. At the option of the Authority, the Required Coverages shall reduce or eliminate such deductibles or self-insured retentions as respects the Authority and its members, directors, officers, employees, agents, and consultants; or the Operator shall procure a bond guaranteeing payment of losses, related investigation, claim administration, and defense expenses.~~



Exhibit G: Minimum Standards

~~Remainder of page intentionally left blank. Minimum Standards follow on the next page.~~

[]⁵

⁵ Note to Proposers: this Exhibit will be updated prior to execution to insert the Minimum Standards, which have been made available on the Procurement Website.



Exhibit H: Required Federal Provisions

The Services and Work under this Agreement shall comply with, and the Operator shall perform its obligations and (where relevant) will require each Subcontractor to perform its respective obligations under the Agreement, the other Transaction Documents, and the Subcontracts in accordance with this Exhibit H.

- I. **Compliance with Nondiscrimination Provisions.** During the performance of the Agreement, OPERATOR, for itself, its assignees, and successors in interest (hereinafter collectively referred to as "~~OPERATOR~~Operator") agrees as follows:
- A. **Compliance with Regulations:** ~~OPERATOR~~The Operator 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 Agreement.
 - B. **Non-discrimination:** ~~OPERATOR~~The Operator, with regard to the work performed by it during the term of this 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 contractors, including procurements of materials and leases of equipment. ~~OPERATOR~~The Operator will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
 - C. **Solicitations for Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by ~~OPERATOR~~the Operator for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by ~~OPERATOR~~ ~~of OPERATOR's~~ the Operator of the Operator's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
 - D. **Information and Reports:** ~~OPERATOR~~The Operator will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of ~~OPERATOR~~the Operator is in the exclusive possession of another who fails or refuses to furnish the information, ~~OPERATOR~~the Operator will so certify to ~~AUTHORITY~~the Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
 - E. **Sanctions for Noncompliance:** In the event of ~~OPERATOR's~~ the Operator's noncompliance with the Non-discrimination provisions of this contract, ~~AUTHORITY~~the Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to withholding payments to the ~~OPERATOR~~Operator under the Agreement until the ~~OPERATOR~~Operator complies, and/or cancelling, terminating, or suspending the Agreement, in whole or in part.



- F. **Incorporation of Provisions:** ~~OPERATOR~~The Operator will include the provisions of paragraphs one through six of this Exhibit ~~B, Section (A)~~H in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. ~~OPERATOR~~The Operator will take action with respect to any contract or procurement as ~~AUTHORITY~~the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if ~~OPERATOR~~the Operator becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, ~~OPERATOR~~the Operator may request ~~AUTHORITY~~the Authority to enter into any litigation to protect the interests of ~~AUTHORITY~~the Authority. In addition, ~~OPERATOR~~the Operator may request the United States to enter into the litigation to protect the interests of the United States.
- II. **Real Property Acquired or Improved Under the Airport Improvement Program.** ~~OPERATOR~~The Operator for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, ~~OPERATOR~~the Operator will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- III. **Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.** ~~OPERATOR~~The Operator for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that ~~OPERATOR~~the Operator will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.
- IV. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, ~~OPERATOR~~the Operator, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:
- A. 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);
 - B. 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);



- C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
 - E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
 - F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
 - G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 - H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
 - I. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
 - J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
 - K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
 - L. 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).
- V. **General Civil Rights Provision.** In all its activities within the scope of its airport program, the ~~PERMITEE~~ 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 identity)~~, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.



- VI. **Right of Re-entry.** In the event of breach of any of the above Nondiscrimination covenants, ~~AUTHORITY~~the Authority will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.
- VII. **Subcontracts.** ~~OPERATOR~~The Operator agrees that it shall insert the above six provisions (Section (I) through Section (VI)) in any agreement by which ~~OPERATOR~~the Operator grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under the Agreement.