K20-783

CURBSIDE MANAGEMENT SERVICES AGREEMENT

BETWEEN

THE CITY OF NEW ORLEANS

BY AND THROUGH THE NEW ORLEANS AVIATION BOARD

AND

ABM AVIATION

CURBSIDE MANAGEMENT SERVICES

THIS CURBSIDE MANAGMEMENT SERVICES AGREEMENT (the "**Agreement**") is entered into by and between the City of New Orleans, represented by LaToya Cantrell, Mayor (the "**City**"), by and through the New Orleans Aviation Board, represented by Hon. Michael Bagneris, Chairman (the "**Board**") (collectively referred to as "**Airport**"), and **ABM Aviation**, represented by **Scott Hutchison, Senior Vice President** (the "**Contractor**"). The Airport and the **Contractor** may sometimes be collectively referred to as the "**Parties**." The Agreement is effective as of September 1, 2020 (the "**Effective Date**").

RECITALS

WHEREAS, the Airport issued a Request For Proposals for Curbside Management Services, RFP #190 (the "RFP") seeking services as described in said RFP for the Airport; and

WHEREAS, the Contractor responded to the RFP, setting forth that it is an experienced operator of curbside management services; and

WHEREAS, the Airport has selected the Contractor to perform the professional services described in the RFP and the Board approved this Agreement at is meeting on June 18, 2020.

NOW THEREFORE, the Airport and the **Contractor** agree as follows:

ARTICLE I - THE CONTRACTOR'S OBLIGATIONS

A. ***Services***. The Contractor will provide the curbside management services at the Airport as described in Exhibit B. Services include, but are not limited to,

1. Coordination and management of taxicabs, TNCs, off-airport parking shuttles and pre-arranged commercial vehicle transportation services, including hotel courtesy vehicles, limousine/sedans, crew shuttles and service vehicles.
2. Vehicle dispatching.
3. Management of vehicles and drivers in the Airport-designated hold lot(s).
4. Curbside management of vehicles and passengers using the Airport's Ground Transportation Center and designated curbside pick-up locations.
5. Enforcement of Airport's Ground Transportation rules and regulations.
6. All other services and obligations as set forth in any the following documents that are incorporated fully into this Agreement: the last addendum, the RFP and the Contractor's proposal dated November 22, 2019. To the extent of a conflict between the Contractor's proposal, the RFP and this Agreement, the order of precedence is this Agreement, the last addendum, the RFP and lastly the Contractor's proposal.
7. Any other reasonable function related to curbside management as designated by Airport.

Contractor shall submit complete and accurate invoices, maintain records, submit to audits and inspections, maintain insurance, and perform all other obligations of the Contractor as set forth in this Agreement. Contractor shall monitor, supervise, and otherwise control and be solely responsible for all persons performing work on its behalf. Contractor shall cooperate with the Airport and any person or entity performing work for the Airport. Airport staff is not authorized to request or instruct the Contractor to perform any work beyond the scope or duration of this Agreement in the absence of an executed amendment to this Agreement.

All services will be supervised by the Airport's Landside Operations Department. Physical post locations and posts are set by the Airport and shall be manned by Contractor during the hours as directed by the Airport. The Airport's Landside Operations Department will provide as much advance notice as possible to Contractor of any changes to post positions so that Contractor can make appropriate arrangements to fill each post. Contractor acknowledges that there might not be any lead time regarding the change of post positions.

B. ***Standards*.** The Contractor, and any person performing work on its behalf, will perform all work under this Agreement in accordance with the Airport's Rules and Regulations and all established Ground Transportation policies and procedures <u>including those prohibiting solicitation</u>. Contractor is strictly prohibited from engaging in the recruitment or solicitation of business including the provision of Ground Transportation. Contractor may not place or install any carts, kiosks, inline store, racks, stands, and display merchandise or trade fixtures outside the boundaries of the Facilities without the express written consent of the Director of Aviation. Failure to adhere to this provision of the Agreement is deemed a material breach which may result in suspension or termination of all or any portion of this Agreement in addition to any other remedies available to City in this Agreement, at law or in equity.

C. ***Compliance with Laws*.** The Contractor, and any person performing work on its behalf, will comply with all applicable federal, state, and local laws and ordinances.

D. ***Invoices*.**

1. The Contractor will submit monthly invoices for work performed under this Agreement to the Airport no later than 10 calendar days following the end of the period covered by the invoice. Untimely invoices may result in delayed payment for which the Airport is not liable. At a minimum, each invoice must include the following information and supporting documentation:

a) Detailed and itemized description of the work and services performed during the immediately preceding calendar month;

b) Rates and itemized hours (e.g., time sheets) for all persons associated with completion of the work and services during the invoice period;

c) Amount due for the Management Fee which shall not exceed 1/12th of the total annual Management Fee;

d) The amount that has been billed by Contractor to date;

e) Monthly Disadvantaged Business Enterprise ("DBE") reporting; and

f) Copies of all supporting invoices in the required format as stated above for sub-Contractors and vendors included in the amounts billed to the Airport by Contractor.

2. As applicable, the Contractor shall include in its monthly invoice the amount due for any Airport-approved technology that has been implemented. The Contractor shall amortize the costs for any Airport-approved technology that is implemented in equal monthly installments over the balance of the initial term of this Agreement or any renewal. Contractor shall not be entitled to charge interest unless Contractor was required to finance the purchase and such financing was agreed to in advance by the Airport before the Contractor's purchase of the technology.

3. All invoices must be signed by an authorized representative of the Contractor under penalty of perjury attesting to the validity and accuracy of the invoice.

4. The Airport may require changes to the form of the invoice and may require additional supporting documentation to be submitted with invoices.

5. The Airport will take a minimum of 45 days to process all invoices and pay applications. All payments will be made by check and no other form of payment will be issued. Payments will only be delivered by U.S. Mail; no other method of delivery will be permitted. Contractor consents to the foregoing payment schedule and will make adequate arrangements to accommodate the Airport's pay schedule. Contractor shall not request payment before the expiration of this 45-day period and will not contact the Airport, its representatives, or Board Members to inquire about the status of payments or otherwise expedite the foregoing pay schedule.

E. ***Prompt Payment.*** Contractor must pay its subcontractors and suppliers all amounts due no later than seven (7) days from receipt of each payment made to Contractor by Airport (unless Contractor has a bona fide dispute with either, less any undisputed portion of the invoice). Contractor shall submit with each invoice a certification that all Contractors and suppliers have been paid for accepted work and materials from previous progress payments received. During the term of the Agreement and upon completion of the Agreement, Airport may request documentation to verify payment to consultants, sub-contractors or suppliers. This provision in no way creates any relationship between any consultant, subcontractor, or supplier and the Airport or any liability on the Airport for Contractor's failure to make timely payment to same. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause, following written approval from the Airport.

F. ***Records and Reporting.***

1. The Contractor will maintain all books, documents, papers, accounting records, invoices, materials records, payrolls, work papers, personnel records, and other evidence pertaining to the performance of services under this Agreement, including, without limitation, of costs incurred through the later of 3 years under Public Records Law from: (a) the completion of this Agreement (including any renewal or extension periods); or (b) from the resolution of any dispute relating to the Agreement. If this Agreement is terminated for any reason, the Contractor will deliver to the Airport all plans and records of work compiled through the date of termination.

2. The Contractor will identify any reporting requirements, including the frequency, method and contents.

3. The Contractor is solely responsible for the relevance and accuracy of all items and details included in any reports relating to the work performed under this Agreement, regardless of any review by the Airport.

G. ***Audit and Inspection.***

1. The Contractor will submit to any Airport audit, inspection, and review and, at the Airport's request, will make available all documents relating or pertaining to this Agreement maintained by or under the control of the Contractor, its employees, agents, assigns, successors and subcontractors,

during normal business hours at the Contractor's office or place of business in Louisiana. If no such location is available, the Contractor will make the documents available at a time and location that is convenient for the Airport.

2. The Contractor will abide by all provisions of City Code § 2-1120, including but not limited to City Code § 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

H. *Insurance*.

1. Except as otherwise noted, Contractor shall, at its sole expense, maintain in full force and effect at all times during the duration of this Agreement, insurance coverage and limits (including endorsements) as described herein. The requirements contained herein, as well as the Airport's review or acceptance of insurance maintained by the Contractor, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under the Agreement. General liability, auto liability and professional liability insurers shall be rated A- or better in the latest update to the A.M. Best Rating Guide; and all other coverage's shall be from companies satisfactory to the Airport. The following insurance is required:

a) Comprehensive General Liability. Contractor shall maintain comprehensive general liability insurance, with combined limits of liability for property damage, bodily injury and/or death of not less than $1,000,000.00, for Contractor (and sub- Contractors).

b) Automobile Liability. Contractor shall maintain automobile liability at a limit of liability not less than $1,000,000 for access to Landside, Airport Owned Property Access and $10,000,000 for Airport Airside Access (if applicable), for each occurrence for all owned, non-owned and hired automobiles. In the event the Contractor does not own any automobiles, Contractor agrees to maintain hired and non-owned auto liability in the same amounts. The hired and non-owned auto liability coverage requirement may be satisfied by way of endorsement to the comprehensive general liability policy, or by a separate business auto coverage form. This coverage shall be primary.

c) Worker's Compensation Insurance & Employers Liability. Contractor shall maintain worker's compensation and employer's liability coverage for all employees in accordance with all applicable state laws and including without limitation employer's liability including occupational disease, subject to a limit of liability of not less than $100,000 limit each accident, $100,000 limit disease aggregate, $100,000 limit disease each employee. Workers' Compensation limits shall be statutory. This coverage shall be primary.

d) Professional Liability. Contractor shall maintain professional liability or equivalent errors and omissions coverage at not less than $1,000,000 per claim. If applicable, when a self-insured retention (SIR) or deductible exceeds $10,000, the Airport reserves the right to request and review Contractor's parent company's most recent annual report or audited financial statement and determine, in its sole discretion, whether this information reveals sufficient financial strength to protect the Airport. Airport may require Contractor to reduce its SIR.. For policies written on a claims-made basis, Contractor shall maintain a retroactive date prior to or equal to the effective date of this Agreement. In the event the policy is canceled, non-renewed, switched to an occurrence form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the duration of this Agreement, Contractor shall purchase a SERP with a minimum reporting period not less than three (3) years. This coverage shall be primary.

e) Umbrella or Excess Liability. If necessary, Contractor may satisfy the minimum limits required above for commercial general liability, business auto liability, and professional liability coverage under umbrella or excess liability. The umbrella or excess liability coverage shall have an aggregate limit not less than the highest "Each Occurrence" limit for commercial general liability, business auto liability, or professional liability.

2. On the general liability policy and all other policies on which it is available, including any applicable umbrella or excess liability coverage, Contractor shall have the City of New Orleans and the New Orleans Aviation Board named as Additional Insured. The Additional Insured endorsement shall cover "The City of New Orleans, the New Orleans Aviation Board, their officers, employees, Contractors and authorized agents." Additional Insured endorsements shall provide coverage on a primary basis. Any insurance or self-insurance maintained by the Airport shall be non-contributing to the Contractor's coverage.

3. If applicable, the retroactive date must be shown and must be before the date of the contract or the beginning of work. If the coverage is canceled or non-renewed, and not replaced with another claims-made policy, Contractor must purchase "extended reporting" coverage for minimum of 5 years after the termination of this agreement.

4. Contractor hereby waives any and all rights of subrogation against the City of New Orleans, the New Orleans Aviation Board, their officers, employees, consultants and authorized agents on all general liability, auto liability, and workers' compensation policies. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

5. No later than ten (10) business days after the Effective Date of this Agreement, Contractor shall deliver to the Airport certificates of insurance evidencing that all types and amounts of insurance coverage required above have been obtained and are in full force and effect. Such certificates shall include a minimum thirty (30) day notification to Airport due to cancellation or non-renewal of coverage.

6. Without notice from the Airport, the Contractor will:

a) Replenish any policy aggregate limit that is impaired before commencement of any work or continuation of any work under this Agreement;

b) Substitute insurance coverage acceptable to the Airport within 30 calendar days if any insurance company providing any insurance with respect to this Agreement is declared bankrupt, becomes insolvent, loses the right to do business in Louisiana, or ceases to meet the requirements of this Agreement; and

c) Notify the Airport in writing within 48 hours of its receipt of any notice of non-renewal, cancellation, or reduction in coverage or limits affecting any policy of insurance maintained under this Agreement.

7. The Airport reserves the right to reject or demand modification of any required policies of insurance, including limits, coverage, or endorsements, from time to time throughout the duration of this Agreement.

8. Each insurance policy required above shall provide that coverage shall not be canceled, except with prior notice to the Airport of no less than 60 days.

I. ***Indemnity.***

1. To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold harmless the Airport, its agents, employees, officials, insurers, self-insurance funds, and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, demands, suits, and judgments for sums of money accruing against the Indemnified Parties: for loss of life or injury or damage to persons or property arising from or relating to any act or omission or the operation of the Contractor, its agents, subcontractors, or employees while engaged in or in connection with the discharge or performance of any work under this Agreement; and for any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of work under this Agreement.

2. Limitation. The Contractor's indemnity does not extend to any loss to the extent arising from the negligence or willful misconduct of any of the Indemnified Parties.

3. Independent Duty. The Contractor has an immediate and independent obligation to, at the Airport's option: (a) defend the Airport from or (b) reimburse the Airport for its costs incurred in the defense of any claim that actually or potentially falls within this indemnity, even if: (a) the allegations are or may be groundless, false, or fraudulent; or (b) the Contractor is ultimately absolved from liability.

4. Expenses. Notwithstanding any provision to the contrary, the Contractor shall bear the expenses including, but not limited to, the Airport's reasonable attorney fees and expenses, incurred by the Airport in enforcing this indemnity.

ARTICLE II - REPRESENTATIONS AND WARRANTIES

A. The Contractor represents and warrants to the Airport that:

1. The Contractor, through its duly authorized representative, has the full power and authority to enter into and execute this Agreement;

2. The Contractor has the requisite expertise, qualifications, staff, materials, equipment, licenses, permits, consents, registrations, and certifications in place and available for the performance of all work required under this Agreement;

3. The Contractor is bonded, if required by law, and fully and adequately insured for any injury or loss to its employees and any other person resulting from the actions or omissions of the Contractor, its employees, or its subcontractors in the performance of this Agreement;

4. The Contractor is not under any obligation to any other person that is inconsistent or in conflict with this Agreement or that could prevent, limit, or impair the Contractor's performance of this Agreement;

5. The Contractor has no knowledge of any facts that could prevent, limit, or impair the performance of this Agreement, except as otherwise disclosed to the Airport and incorporated into this Agreement;

6. The Contractor is not in breach of any federal, state, or local statute or regulation applicable to the Contractor or its operations;

7. Any rate of compensation established for the performance of services under this Agreement are no higher than those charged to the Contractor's most favored customer for the same or substantially similar services;

8. The Contractor has read and fully understands this Agreement and is executing this Agreement willingly and voluntarily; and

9. All of the representations and warranties in this Article and elsewhere in this Agreement are true and correct as of the date of this Agreement by the Contractor and the execution of this Agreement by the Contractor's representative constitutes a sworn statement, under penalty of perjury, by the Contractor as to the truth of the foregoing representations and warranties.

B. ***Convicted Felon Statement.*** The Contractor complies with City Code §2-8(c) and no principal, member, or officer of the Contractor has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

C. ***Non-Solicitation Statement.*** The Contractor swears that it has not employed or retained any company or person to solicit or secure this Agreement other than a 1) bona fide employee working solely for Contractor; 2) consultant representing the Contractor; or 3) an attorney representing the Contractor. The Contractor has not paid or agreed to pay any person any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Amendment other than a 1) bona fide employee working solely for Contractor; 2) consultant representing the Contractor; or 3) an attorney representing the Contractor.

D. ***Employee Verification.*** The **Contractor** swears that (i) it is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Agreement, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of the provisions of this paragraph may subject this Agreement to termination, and may further result in the Contractor being ineligible for any public contract for a period of 3 years from the date the violation is discovered. The Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the Airport occasioned by the termination of this Agreement or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of this provision. The Contractor will provide to the Airport a sworn affidavit attesting to the above provisions if requested by the Airport. The Airport may terminate this Agreement for cause if the Contractor fails to provide the required affidavit or violates any provision of this paragraph.

E. The Contractor acknowledges that the Airport is relying on these representations and warranties and Contractor's expertise, skill, and knowledge and that the Contractor's obligations and liabilities will not be diminished by reason of any approval by the Airport.

ARTICLE III - THE AIRPORT'S OBLIGATIONS

A. ***Administration.*** The Airport will:

1. Provide the Contractor any documents or other information deemed necessary for the Contractor's performance of the services required under this Agreement;

2. Provide access to Department personnel to discuss the required services during normal working hours, as requested by the Contractor.

B. ***Payment.*** The Airport will make payments to the Contractor at the rate of compensation established in this Agreement based upon the Contractor's certified invoices, except:

1. The Airport's obligation to pay is contingent upon the Contractor's: (a) submission of a complete and accurate invoice; (b) satisfactory performance of the services and conditions required by this Agreement;

2. The Airport, in its discretion, may withhold payment of any disputed amounts, and no interest shall accrue on any amount withheld pending the resolution of the dispute;

3. The Airport may set off any amounts due to the Contractor against any amounts deemed by the Airport to be owed to the Airport by the Contractor pursuant this Agreement; and

4. All compensation owed to the Contractor under this Agreement is contingent upon the appropriation and allocation of funds for work under this Agreement by the Airport.

5. The Airport is not obligated under any circumstances to pay for any work performed or costs incurred by the Contractor that: exceed the maximum aggregate amount payable established by this Agreement; are beyond the scope or duration of this Agreement; arise from or relate to any change order within the scope of the Agreement; are for services performed on days on which services were suspended, due to circumstances beyond the control of the Airport, and no work has taken place; arise from or relate to the correction of errors or omissions of the Contractor or its subcontractors; or the Airport is not expressly obligated to pay under this Agreement.

6. If this Agreement is terminated for any reason, the Airport will pay the Contractor only for the work requested by the Airport and satisfactorily performed by the Contractor through the date of termination, except as otherwise provided in this Agreement.

ARTICLE IV - COMPENSATION

A. ***Rate of Compensation***.

1. The Airport will pay the Contractor in accordance with the amounts established in the Hourly Rates and Management Fee found in Exhibit B. The Contractor shall submit a monthly invoice for the hours actually worked by each category of personnel (based on the Hourly Rates in Exhibit C) for the previous month and 1/12th of the annual Management Fee.

2. This Agreement does not guarantee any amount of work or compensation except as specifically authorized by the Airport in accordance with the terms and conditions of this Agreement.

3. The stated compensation is inclusive, and includes no additional amounts for, the Contractor's costs, including without limitation all expenses relating to overhead, administration, subcontractors, employees, bid preparation, bonds, scheduling, invoicing, insurance, record retention, reporting, inspections, audits, the correction of errors and omissions, or minor changes within the scope of this Agreement. The Airport will not consider or be obligated to pay or reimburse the Contractor any other charges or fees and the Contractor will not be entitled to any additional compensation or reimbursement, except otherwise specifically provided in the Agreement.

4. The Contractor will notify the Airport immediately in writing of any reduction to the rate of compensation for its most favored customer and the rate of compensation established by this Agreement automatically will adjust, the Hourly Rates and Management Fee Offer found in Exhibit B notwithstanding, to the reduced rate effective as of the effective date of the reduction for the most favored customer.

5. ***Maximum Amount***. The maximum aggregate amount payable by the Airport under this Agreement for the first year of services is $1,238,800.00. Additional allocation of funds for years two and three of this Agreement will be sought from the Board by Airport staff on an annual basis and such amount will be based on the expected level of work and services to be performed during those 1 year periods.

a) *Cost Recovery*. In accordance with Section 2-8.1 of the New Orleans Municipal Code entitled "Cost recovery in contracts, cooperative endeavor agreements, and grants," to the maximum extent permitted by law, the Contractor shall reimburse the NOAB or disgorge anything of value or economic benefit received from the NOAB if the Contractor fails to meet its contractual obligations

6. For the first year of this Contract, due to the COVID-19 crisis, the Contractor and Airport Landside Operations Department will work together to determine if the following costs need to be expended (such amount is included in the first year management fee) because of the reduced number of posts and personnel: Radios – $15,000.00; Computers – $5,000.00; and Uniforms – $10,000.00. The Landside Operations Department will not unreasonably withhold approval for such expenditures by Contractor depending on the number of personnel and posts that the Airport requires to be covered.

7. The Contractor understands and acknowledges that due to COVID-19 passenger levels have significantly decreased from those at the time the RFP was released. The parties agree to work together to identify the number of Contractor's on-site management and other personnel to cover the posts and post hours that are needed to provide the services for the travelling public, which may differ from those posts and hours required in Exhibit A. The first year maximum cost identified In Article IV is based on certain assumptions as to passenger levels and expected posts and hours for post coverage. Given the uncertainties in passenger levels due to COVID-19, the parties will regularly meet (not less than monthly) to discuss projected passenger levels, Contractor's staffing levels and any additional post(s) or coverage that may required to meet the passenger level projections.

ARTICLE V - DURATION AND TERMINATION

A. ***Term.*** The term of this Agreement shall be for a period of three (3) years, beginning the Effective Date.

B. ***Extension.*** This Agreement may be extended at the option of the Airport, for one (1) additional two-year term.

C. ***Termination for Convenience.*** Either party may terminate this Agreement at any time during the term of the Agreement by giving the other party written notice of the termination at least 60 calendar days before the intended date of termination.

D. ***Termination for Non-Appropriation.*** This Agreement will terminate immediately in the event of non-appropriation of funds sufficient to maintain this Agreement without the requirement of notice and the Airport will not be liable for any amounts beyond the funds appropriated and encumbered for this Agreement.

E. ***Termination for Cause.*** The Airport may terminate this Agreement immediately for cause by sending written notice to the Contractor. "Cause" includes without limitation any failure to perform any obligation or abide by any condition of this Agreement or the failure of any representation or warranty in this Agreement, including without limitation any failure to comply with the requirements of the Airport's Disadvantaged Business Enterprise program and any failure to comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General. If a termination for cause is subsequently challenged in a court of law and the challenging party prevails, the termination will be deemed to be a termination for convenience effective 30 days from the date that the original written notice of termination for cause was sent to the challenging party; no further notice will be required.

F. ***Suspension.*** The Airport may suspend this Agreement at any time and for any reason by giving 2 business day's written notice to the Contractor. The Contractor will make a good faith effort to resume work upon 5 business day's written notice from the Airport. Airport agrees that it will pay Contractor for reasonable labor mobilization and demobilization and other reasonable associated costs incurred in the event of any Suspension. Suspension of services shall not impact the obligation of Airport to pay the fixed management fee.

ARTICLE VI – DECLARED DISASTER

A. ***Declaration.*** During the declaration of an emergency by federal, state, and/or local government, the Contractor shall provide support to the Airport on an as-needed and task-order-driven basis. Because of the uncertainty of the scale and/or type of emergency, the services to be provided by the Contractor will vary and may need to be adjusted as needs are identified. The Contractor may be requested to provide a range of services. Said services may need to be rendered on a continual basis (24 hours / 7 days per week) during the declaration of an emergency.

B. ***Task Order. Notification and Personnel***. Prior or during the declaration of an emergency, the Airport will notify the Contractor via task order if the Airport requires the Contractor's support. Upon activation by task order, the Contractor will provide the Airport with contact information of personnel assigned to the task order; and coordinate with the Airport to identify any personnel available to meet the Airport's needs.

C. ***Purchase Order***. Once services are identified, the Airport will issue a purchase order to the Contractor. The Airport will issue a subsequent purchase order in case of additional needs for services, or may issue a modified purchase order if changes are made to the initial purchase order.

D. The Contractor will ensure that the Airport is provided with timely and accurate reports and other documentation, as requested.

ARTICLE VII - PERFORMANCE MEASURES

A. ***Factors***. The Airport will measure the performance of the Contractor according to the following non-exhaustive factors: work performed in compliance with the terms of the Agreement; staff availability; staff training; staff professionalism; staff experience; customer service; communication and accessibility; prompt and effective correction of situations and conditions; timeliness and completeness of submission of requested documentation (such as records, receipts, invoices, insurance certificates, and computer-generated reports).

B. ***Failure to Perform***. If the Contractor fails to perform according to the Agreement, the Airport will notify the Contractor. If there is a continued lack of performance after notification, the Airport may declare the Contractor in default and may pursue any appropriate remedies available under the Agreement and/or any applicable law. In the event of a notification of default, the Airport will invoice the defaulting Contractor for any increase in costs and other damages sustained by the Airport. Further, the Airport will seek full recovery from the defaulting Contractor.

ARTICLE VIII – LIVING WAGES

A. ***Definitions***. Unless otherwise expressly provided in this Agreement, Capitalized terms used but not defined herein, shall have the definition attributed to them in Article VIII, Section 70-802 of the City Code.

B. ***Compliance.*** To the fullest extent permitted by law, the Contractor agrees to abide by City Code Sections 70-801, *et seq.*, which requires, in pertinent part, the following:

1. Payment of an hourly wage to Covered Employees equal to the amounts defined in the City Code ("**Living Wage**");
2. Receipt of at least seven (7) days per year of compensated leave for Covered Employees, as required by Section 70-807 of the City Code; and
3. Post notice in a prominent place regarding the applicability of the Living Wage Ordinance in every workplace in which Covered Employees are working that is within the Covered Employer's custody and control, as required by Section 70-810 of the City Code.

C. ***Current Living Wage.*** In accordance with the Living Wage Ordinance, the current Living Wage per the Consumer Price Index data is equal to $11.19. The Contractor shall be responsible for confirming the Current Living Wage by visiting https://www.nola.gov/economic-development/workforce-development/. In the event that the current Living Wage should rise to the point that Contractor's employees are being paid less than the current Living Wage, Contractor shall be allowed an equitable adjustment to its hourly billing rate to allow it to comply with the City Code without undue hardship. In the event that the Living Wage increases as set forth above during the first sixth months of this Agreement or any amendment thereto, Contractor shall seek an increase in its hourly rate from the Board by amendment. If the increase occurs during the last six months of this Agreement or any amendment, Contractor shall submit an end of contract invoice for reimbursement of funds expended above the hourly rate for said Agreement or amendment.

D. ***Adjusted Living Wage.*** In accordance with Section 70-806(2) of the City Code, the Contractor acknowledges and agrees that the Living Wage may be increased during the term of the Agreement. Any City contract or City financial assistance agreement (a) extending from one calendar year into the next or (b) with a term of longer than one year, inclusive of any renewal terms or extensions, shall require the Covered Employer to pay the Covered Employee an Adjusted Living Wage, accounting for the annual Consumer Price Index adjustment. The indexing adjustment shall occur each year on July 1st using the Consumer Price Index figures provided for the calendar year ended December 31st of the preceding year, and thereafter on an annual basis.

E. ***Subcontract Requirements.*** As required by Section 70-804 of the City Code, the Contractor, beneficiary, or other Covered Employer, prior to entering into a subcontract, shall notify subcontractors in writing of the requirements and applicability of Article VIII – The Living Wage Ordinance ("**Article**"). City contractors and beneficiaries shall be deemed responsible for violations of this Article by their subcontractors.

F. **Reporting.** On or before January 31st and upon request by the City, the Contractor shall identify (a) the hourly wage earned by the lowest paid Covered Employee and (b) the number of days of compensated leave received by Covered Employees earning less than 130% of the then-prevailing wage during the current term of the Agreement, and provide the identified information to the following:

Office of Workforce Development
Living Wage - Compliance
1340 Poydras Street – Suite 1800
New Orleans, Louisiana 70112

G. **Compliance Monitoring.** Covered Employers under this Agreement are subject to compliance monitoring and enforcement of the Living Wage requirements by the Office of Workforce Development (the "**OWD**") and/or the Chief Administrative Office ("**CAO**"). Covered Employers will cooperate fully with the OWD and/or the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements. Steps and actions include, but are not limited to, requirements that: (i) the Contractor will cooperate fully with the OWD and the CAO and other City employees and agents authorized to assist in the administration and enforcement of the Living Wage requirements; (ii) the Contractor agrees that the OWD and the CAO and their designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, payroll records and employee paychecks; and (ii) that the City may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Living Wage standards.

H. **Remedies**. If the Contractor fails to comply with the Living Wage requirements during the term of the Agreement, said failure may result in termination of the Agreement or the pursuit of other remedies by the City, including, but not limited to, the penalties and enforcement mechanisms set forth in Section 70-811 of the City Code.

ARTICLE IX - DISADVANTAGED BUSINESS ENTERPRISE ("DBE") PROGRAM

A. ***Overview.*** The Board's DBE Liaison Officer ("DBELO") oversees the Airport's State and Local Disadvantaged Enterprises ("SLDBE") Program. The SLDBE Program, which complies with City Code sections 70-456, *et seq.*, strives to ensure that the following firms have the maximum opportunity to participate in the performance of agreements financed wholly with state and/or local funds:

- Firms that are certified SLDBE by the City, the New Orleans Aviation Board, Sewerage & Water Board, or the Jazz Casino Company, LLC d/b/a Harrah's New Orleans Jazz Casino.
- Firms that are certified DBE by the Louisiana Unified Certification Program.

Contractor agrees to use its best efforts to carry out all applicable requirements of the SLDBE Program for the administration of this Agreement. Contractor's failure to carry out these requirements, as determined by the DBELO, shall constitute a material breach of Agreement that may result in the termination of the Agreement and/or the pursuit of any other remedies available to the Airport under any applicable law, ordinance, or rule.

B. ***Non-Discrimination.***

1. *Equal Employment Opportunity*. In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (1) will not be discriminate against any employee or applicant for employment because of race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, sex, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, gender identity, creed, culture, or ancestry.

2. *Non-Discrimination*. In the performance of this Agreement, the Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex, gender, sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the City working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

3. *Incorporation into Subcontracts*. The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

The City may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

C. ***Non-Compliance.*** Contractor agrees that failure to carry out the SLDBE policy and SLDBE obligations, set forth herein, shall constitute a breach of the Agreement which may result in termination of the Agreement.

Contractor agrees to comply with the SLDBE program at the Airport as outlined in this solicitation. Contractor further agrees to provide the DBELO with periodic reports and records as are more fully discussed below. These reports and records shall provide documented evidence that the SLDBE participation goal is being achieved in accordance with the provisions of this contract.

Failure to maintain the level of SLDBE participation shall be deemed a material breach of this Contract, which shall result in such remedies as the Airport deems appropriate and may include:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages;
4. Disqualifying the Contractor from future bidding as non-responsible; and
5. Termination of the contract.

D. ***SLDBE Goals.*** The Airport established an SLDBE goal for this Agreement. The goal is as stated in the Request for Proposals; however, the final goal is as stated on SLDBE Compliance Form-1.

Contractor acknowledges that only work performed by SLDBEs (or DBEs, as the case may be) who meet the following requirements will be eligible to be counted toward the goal:

1. The firm is certified SLDBE by the City (including its affiliated agencies and boards) or as a DBE by the Louisiana Unified Certification Program;
2. The firm is certified SLDBE or DBE in the area in which the firm is to perform work under the Agreement;
3. The firm is listed as an SLDBE or DBE on Compliance Form-1 (unless the DBELO has approved its addition or substitution in writing);
4. The firm remains certified as SLDBE or DBE through the duration of the contract, except as said SLDBE or DBE firm is otherwise eligible to be counted in accordance with SLDBE Plans or 49 CFR Part 26; and
5. The firm performs a commercially useful function as defined below.

Furthermore, each SLDBE or DBE must perform at least the percentage of work indicated on SLDBE Compliance Form-1 unless otherwise agreed in writing by the DBELO. Assuming the SLDBE or DBE meets the aforementioned criteria, participation shall be counted toward the SLDBE goal as follows:

1. Contractor may count only the total dollar value of the subcontract awarded to the certified SLDBE or DBE sub- Contractor, subcontractor, or supplier;
2. Contractor can count 100% of the SLDBE's participation provided that the SLDBE or DBE has committed to performing at least 51% of the work with its own forces;
3. Contractor may count 100% of SLDBE or DBE manufacturer supplier's participation and 60% of SLDBE or DBE non-manufacturer supplier's participation toward its contract goal.
4. When Contractor is in a joint venture with one or more SLDBE or DBE business entities, the DBELO, after reviewing the joint venture agreement, shall determine the percentage of participation that will be counted toward the contract goal;

Contractor shall demonstrate compliance with meeting the SLDBE participation goals in performance of this contract. Compliance can be achieved in one of two ways:

1. Contractor can satisfy the SLDBE goal by selecting and documenting certified, qualified SLDBE or DBE business(es) at the targeted level of SLDBE participation.
2. If Contractor cannot meet the SLDBE goal, it must document its Good Faith Efforts to achieve the SLDBE goal by demonstrating that requisite activities were conducted to identify, recruit and select qualified and certified SLDBEs or DBEs.

E. ***Commercially Useful Function.*** SLDBE participation is only counted when the SLDBE or DBE Contractor, contractor, or vendor performs a commercially useful function.

An SLDBE or DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLDBE or DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

An SLDBE or DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of SLDBE participation. If an SLDBE or DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the SLDBE or DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it is presumed that the firm is not performing a commercially useful function.

F. ***Good Faith Efforts.*** Good Faith Efforts are required by the Contractor when the SLDBE goals established for a contract are not met, or at any time during the contract when achievement of the SLDBE goal is in jeopardy. It is Contractor's responsibility to provide sufficient evidence for the Board to ascertain the efforts made. Contractor shall demonstrate Good Faith Efforts to maximize participation by SLDBEs or DBEs prior to award and during the life of the contract. Good Faith Efforts include personal contacts, follow-ups and earnest negotiations with SLDBEs and DBEs. The Board will consider, at a minimum, the following efforts as relevant, although this listing is not exclusive or exhaustive and other factors and types of efforts may be relevant:

1. Efforts made to select portions of the work to be performed by SLDBEs or DBEs in order to increase the likelihood of achieving the stated goal. It is the Contractor's responsibility to make a sufficient portion of the work available to sub-consultants, subcontractors, and suppliers and to select those portions of work or materials consistent with the availability of SLDBE or DBE sub- Contractor s, subcontractors and suppliers to assure meeting the goal for SLDBE participation. Selections of portions of work are required to at least equal the SLDBE goal in the contract.
2. Written notifications at least fourteen (14) calendar days prior to bid opening which solicits a reasonable number of SLDBEs or DBEs interested in participation in the contract as a subcontractor, regular dealer, manufacturer or sub- Contractor for specific items of work. Contractor shall provide notice to a reasonable number of SLDBEs or DBEs that their interest in the contract is being solicited, with sufficient time to allow the SLDBE or DBE to participate effectively. Contractor shall seek SLDBEs or DBEs in the same geographic area from which it generally seeks subcontractors for a given project. If the contractor cannot meet the goal using SLDBEs or DBEs from the normal area, Contractor shall expand its search to a wider geographic area.
3. Demonstrated efforts made to negotiate in good faith with interested SLDBEs or DBEs for specific items of work include:

a. Attending pre-bid meetings that were scheduled to inform SLDBE or DBE firms of subcontracting opportunities and/or requesting a copy of the DBE Directory.
b. Soliciting certified SLDBE participation through all reasonable and available means of communication (e.g., letters, telephone calls, face-to-face meetings, place notices in hardcopy and online publications, network with community organizations).
c. Providing potential SLDBE or DBE firms and vendors with adequate and timely information as to the plans and specifications of a project, as well as information necessary to provide a bid or quote.
d. Documenting that certified SLDBEs or DBEs for each potential vendor, subcontracting or supply category in the contract have been contacted. Documentation must include:
    i. The names, addresses, and telephone numbers of SLDBEs or DBEs that were contacted, and the date(s) of contact.
    ii. A description of the information provided to SLDBEs or DBEs regarding the plans and specifications for portions of the work to be performed.
    iii. A statement explaining why additional agreements with SLDBEs or DBEs were not reached.
e. Selecting portions of the project to be performed by a certified SLDBE(s) or DBE(s) in order to increase the likelihood that the SLDBE goal will be achieved. Divide the contract into economically feasible segments.
f. For each SLDBE or DBE that is contacted but rejected, providing the firm with reasons for the rejection and providing the DBELO with a copy of the documentation.
g. Any additional information not included above which would aid the DBELO in evaluation of the Contractor's Good Faith Efforts.

4. The following are examples of actions that **<u>will not</u>** be accepted as justification by the Contractor for failure to meet SLDBE contract goals:
    a. Failure to contract with a SLDBE or DBE solely because the SLDBE or DBE was unable to provide performance and/or payment bonds
    b. Rejection of a SLDBE or DBE bid or quotation based on price alone.
    c. Failure to contract with a SLDBE or DBE because the SLDBE or DBE will not agree to perform items of work at the unit price bid.
    d. Failure to contract with a SLDBE or DBE because the Contractor normally would perform all or most of the work in the contract.
    e. Rejection of a SLDBE or DBE as unqualified without sound reasons that are based on a thorough investigation of their capabilities.
    f. Failure to make more than mail solicitations.

G. *<u>Post-Award Modification</u>*. Generally, the DBELO will only count toward fulfillment of Contractor's SLDBE goal work performed by SLDBEs or DBEs listed on SLDBE Compliance Form-1 who meet the requirements listed under SLDBE Goals.

However, the DBELO may grant a post-award modification request if, for a reason beyond Contractor's control, Contractor is unable to use one of the certified SLDBEs or DBEs on SLDBE Compliance Form-1 to perform the specified work. Contractor is required to notify the DBELO immediately of the SLDBE's or DBE's inability or unwillingness to perform and to provide reasonable documentation. To the extent needed to meet the SLDBE goal, Contractor is required to use and document Good Faith Efforts to find a similarly qualified and certified SLDBE or DBE entity to perform the work of the SLDBE or DBE firm to be terminated or removed. Contractor acknowledges that before an SLDBE or DBE participant can be removed or substituted, the Contractor must submit a written request to the DBELO along with the reason for the request and the name(s) of the replacement SLDBE or DBE firm(s) including documentation of Good Faith Efforts if warranted. The DBELO will decide whether or not to grant the removal and substitution and issue a written decision within ten (10) days of receipt of the request. If the request is granted, Contractor must provide copies of new or amended subcontracts.

The DBELO may also grant a post-award modification request if Contractor reasonably believes that, due to a change of scope, execution of the work in accordance with directions from the Airport is unlikely to meet the established percentage of terms. In such case, Contractor shall notify the DBELO in writing immediately of the issue and potential modifications needed to the SLDBE goal, as well as use and document Good Faith Efforts to achieve a reasonable amount of SLDBE participation on the remaining work on the Agreement. The DBELO will decide whether to grant the modification and issue a written decision within ten (10) days of receipt of the request. If the request is granted, Contractor must provide copies of new or amended subcontracts.

If Contractor fails or refuses to comply with these requirements for post-award modifications, including replacing or substituting an SLDBE or DBE, Contractor shall be deemed in breach of the Agreement.

H. *Cooperation*. Contractor shall:

1. Designate an individual as the "DBE Liaison" who will monitor the Contractor's SLDBE participation as well as document and maintain records of Good Faith Efforts with SLDBEs or DBEs.
2. Execute written contracts with SLDBEs or DBEs that meet the applicable SLDBE goals.
    a. Contractor shall provide the DBELO with copies of said contracts within 30 days from the date this Agreement is fully executed between the Airport and Contractor.
    b. Contractor shall agree to promptly pay subcontractors, including SLDBEs and DBEs, in accordance with law.
3. Establish and maintain the following records for review upon request by the DBELO:
    a. Copies of written contracts with SLDBEs or DBEs and purchase orders;
    b. Documentation of payments and other transactions with SLDBEs or DBEs;
    c. Appropriate explanations of any changes or replacements of SLDBEs or DBEs, which may include a record of Post-Award Good Faith Efforts for each certified firm that Contractor does not use in accordance with the approved SLDBE participation submission;
    d. Any other records required by the DBELO.

Contractor is required to maintain such records for 3 years after completion or closeout of this Agreement. Such records are necessary to determine compliance with their SLDBE obligations.

4. Post monthly payments and submit regular reports to the DBELO as required via B2G Now or other means approved by the DBELO.
    a. Contractor shall submit the initial report outlining SLDBE participation within 30 days from the date of notice to proceed (or equivalent document) issued by the Airport to Contractor. Thereafter, "SLDBE Utilization" reports shall be due on or before the fifteenth day of each month until all SLDBE subcontracting work is completed.

b. Reports are required even when no activity has occurred in a monthly period.
c. If the established percentage is not being met, the monthly report shall include a narrative description of the progress being made in SLDBE participation.
d. Contractor may also be required to attach or upload copies of canceled checks or bank statements that identify payer, payee and amount of transfer to verify payment information as indicated on the form.

5. Conform to the established percentage as approved by the DBELO.
    a. The total dollar amount of the Agreement shall include approved change orders and amendments. For a requirements contract, the total dollar amount shall be based in actual quantities ordered.
    b. No changes to the established percentage and SLDBE or DBE Entities submitted on SLDBE Compliance Form-1 shall be allowed without approval by the DBELO.
    c. The Airport will not adjust the contract for any increase in cost due to replacement of SLDBE or DBE Entities.

I. *Monitoring*. To ensure compliance with SLDBE requirements during the term of this Agreement, the DBELO will monitor the Contractor's use of SLDBE and DBE sub- consultants, subcontractors, and suppliers through the following actions:

1. Job site visits;
2. Electronic payment tracking via the Contract Compliance Monitoring System or other means as approved by the Board;
3. Routine audits of subcontract agreements and correspondence.
4. Routine audits of contract payments to all sub- consultants, subcontractors, and suppliers;
5. Reviewing of records and reports; and/or
6. Interviews of selected personnel.

The DBELO may schedule inspections and on-site visits with or without prior notice to Contractor or SLDBEs or DBEs.

Contractor agrees to cooperate with the DBELO and acknowledges that failure to supply requested documentation shall be deemed a breach of the contract.

J. *Prompt Payment*. Contractor shall ensure that each sub- consultant, subcontractor, and supplier under this contract, especially SLDBE and DBE firms, are paid no later than seven (7) business days from the receipt of each payment Contractor receives from the Board. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause, following written approval of the Board.

K. *DBE Fraud*. Contractor acknowledges that DBE Fraud occurs when the Contractor or any sub-consultant, subcontractor or supplier to this Agreement misrepresents who performed the work in order to increase job profit while appearing to be in compliance with goals for SLDBE participation.

The Board shall inform the City's Office of the Inspector General of any false, fraudulent, or dishonest conduct in connection with the SLDBE program so that the Office of Inspector General may investigate and take any necessary legal action.

ARTICLE X - NON-DISCRIMINATION

A. *Equal Employment Opportunity*. In all hiring or employment made possible by, or resulting from this Agreement, the Contractor (1) will not discriminate against any employee or applicant for employment because of race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where applicable, will take affirmative action to ensure that the Contractor's employees are treated during employment without regard to their race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall apply to, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, physical or mental disability, national origin, sexual orientation, creed, culture, or ancestry.

B. ***Non-Discrimination*.** In the performance of this Agreement, the Contractor will not discriminate on the basis, whether in fact or perception, of a person's race, color, creed, religion, national origin, ancestry, age, sex (gender), sexual orientation, gender identity, domestic partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1) any employee of the Airport working with the Contractor in any of Contractor's operations within Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by the Contractor. The Contractor agrees to comply with and abide by all applicable federal, state and local laws relating to non-discrimination, including, without limitation, Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

C. ***Incorporation into Subcontracts*.** The Contractor will incorporate the terms and conditions of this Article into all subcontracts, by reference or otherwise, and will require all subcontractors to comply with those provisions.

D. The Airport may terminate this Agreement for cause if the Contractor fails to comply with any obligation in this Article, which failure is a material breach of this Agreement.

ARTICLE XI - INDEPENDENT CONTRACTOR

A. ***Independent Contractor Status*.** The Contractor is an independent contractor and shall not be deemed an employee, servant, agent, partner, or joint venture of the Airport and will not hold itself or any of its employees, subcontractors or agents out to be an employee, partner, or agent of the Airport.

B. ***Exclusion of Worker's Compensation Coverage*.** The Airport will not be liable to the Contractor, as an independent contractor as defined in La. R.S. 23:1021(7), for any benefits or coverage as provided by the Workers' Compensation Law of the State of Louisiana. Under the provisions of La. R.S. 23:1034, any persons employed by the Contractor will not be considered an employee of the Airport for the purpose of Workers' Compensation coverage.

C. ***Exclusion of Unemployment Compensation Coverage*.** The Contractor, as an independent contractor, is being hired by the Airport under this Agreement for hire and defined in La. R.S. 23:1472(E) and neither the Contractor nor anyone employed by it will be considered an employee of the Airport for the purpose of unemployment compensation coverage, which coverage same being hereby expressly waived and excluded by the parties, because: (a) the Contractor has been and will be free from any control or direction by the Airport over the performance of the services covered by this contract; (b) the services to be performed by the Contractor are outside the normal course and scope of the Airport's usual business; and (c) the Contractor has been independently engaged in performing the services required under this Agreement prior to the date of this Agreement.

D. ***Waiver of Benefits*.** The Contractor, as an independent contractor, will not receive from the Airport any sick and annual leave benefits, medical insurance, life insurance, paid vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the Airport under this Agreement.

ARTICLE XII - NOTICE

A. ***In General***. Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. To the Airport:

    Walter J. Krygowski
    Deputy Director of Operations and MaintenanceNew Orleans Aviation Board
    Louis Armstrong New Orleans International Airport
    P.O. Box 20007
    New Orleans, LA 70141

    And

    Kevin C. Dolliole
    Director of Aviation
    New Orleans Aviation Board
    Louis Armstrong New Orleans International Airport
    P.O. Box 20007
    New Orleans, LA 70141

2. To the Contractor:

    Scott Hutchison
    Senior Vice President
    ABM Aviation
    4151 Ashford Dunwoody Road, Suite 600
    Atlanta, GA 30319

B. ***Effectiveness***. Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery.

C. ***Notification of Change***. Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

ARTICLE XIII - ADDITIONAL PROVISIONS

A. ***Amendment***. No amendment of or modification to this Agreement shall be valid unless and until executed in writing by the duly authorized representatives of both parties to this Agreement.

B. ***Assignment***. This Agreement and any part of the Contractor's interest in it are not assignable or transferable without the Airport's prior written consent.

C. ***Choice of Law***. This Agreement will be construed and enforced in accordance with the laws of the State of Louisiana without regard to its Conflict of Laws provisions.

D. ***Conflicting Employment***. To ensure that the Contractor's efforts do not conflict with the Airport's interests, and in recognition of the Contractor's obligations to the Airport, the Contractor will decline any offer of other employment if its performance of this Agreement is likely to be adversely affected by the acceptance of the other employment. The Contractor will promptly notify the Airport in writing of its intention to accept the other employment and will disclose all possible effects of the other employment on the Contractor's performance of this Agreement. The Airport will make the final determination whether the Contractor may accept the other employment.

E. ***Construction of Agreement.*** Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement shall be construed or resolved in favor of or against the Airport or the Contractor on the basis of which party drafted the uncertain or ambiguous language. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. Where appropriate, the singular includes the plural and neutral words and words of any gender shall include the neutral and other gender.

F. ***Entire Agreement.*** This Agreement, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

G. ***Exhibits.*** The following exhibits will be and are incorporated into this Agreement:

1. Exhibit A – Scope of Services
2. Exhibit B – Required Federal Provisions
3. Exhibit C –Management Fee and Hourly Rates

H. ***Jurisdiction.*** The Contractor consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction on account of the residence of the Contractor.

I. ***Limitations of the Airport's Obligations.*** The Airport has no obligations not explicitly set forth in this Agreement or any incorporated documents or expressly imposed by law.

J. ***No Third Party Beneficiaries.*** This Agreement is entered into for the exclusive benefit of the parties and the parties expressly disclaim any intent to benefit anyone not a party to this Agreement.

K. ***Non-Exclusivity.*** This Agreement is non-exclusive and the Contractor may provide services to other clients, subject to the Airport's approval of any potential conflicts with the performance of this Agreement and the Airport may engage the services of others for the provision of some or all of the work to be performed under this Agreement.

L. ***Non-Waiver.*** The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

M. ***Order of Documents.*** In the event of any conflict between the provisions of this Agreement any incorporated documents, the terms and conditions of the documents will apply in this order: the Agreement; the last amendment to the RFP, the RFP and Scope of Services.

N. ***Ownership Interest Disclosure.*** The Contractor will provide a sworn affidavit listing all natural or artificial persons with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor via a counter letter. For the purposes of this provision, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the Airport may, after 30 days' written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payments until the required affidavits are submitted.

O. ***Ownership of Records.*** Upon final payment, all data collected and all products of work prepared, created or modified by Contractor in the performance of this Agreement, including without limitation any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings or other such material, regardless of form and whether finished or unfinished, but excluding the Contractor's personnel and administrative records and any tools, systems, and information used by the Contractor to perform the services under this Agreement, including computer software (object code and source code), know-how, methodologies, equipment, and processes and any related intellectual property (collectively, "Work Product") will be the exclusive property of Airport and the Airport will have all right, title and interest in any Work Product, including without limitation the right to secure and maintain any copyright, trademark, or patent of Work Product in the Airport's name. No Work Product may be reproduced in any form without the Airport's express written consent. The Airport may use and distribute any Work Product for any purpose the Airport deems appropriate without the Contractor's consent and for no additional consideration to the Contractor.

P. ***Prohibition of Financial Interest in Agreement.*** No elected official or employee of the Airport shall have a financial interest, direct or indirect, in this Agreement. For purposes of this provision, a financial interest held by the spouse, child, or parent of any elected official or employee of the Airport shall be deemed to be a financial interest of such elected official or employee of the Airport. Any willful violation of this provision, with the expressed or implied knowledge of Contractor, shall render this Agreement voidable by the Airport and shall entitle the Airport to recover, in addition to any other rights and remedies available to the Airport, all monies paid by the Airport to Contractor pursuant to this Agreement without regard to Contractor's otherwise satisfactory performance of the Agreement.

Q. ***Prohibition on Political Activity.*** None of the funds, materials, property, or services provided directly or indirectly under the terms of this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

R. ***Remedies Cumulative.*** No remedy set forth in the Agreement or otherwise conferred upon or reserved to any party shall be considered exclusive of any other remedy available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and each may be exercised from time to time as often as the occasion may arise or as may be deemed expedient.

S. ***Severability.*** Should a court of competent jurisdiction find any provision of this Agreement to be unenforceable as written, the unenforceable provision should be reformed, if possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is not possible, the unenforceable provision shall be fully severable and the remaining provisions of the Agreement remain in full force and effect and shall be construed and enforced as if the unenforceable provision was never a part of the Agreement.

T. ***Survival of Certain Provisions.*** All representations and warranties and all obligations concerning record retention, inspections, audits, ownership, indemnification, payment, remedies, jurisdiction and choice of law shall survive the expiration, suspension, or termination of this Agreement and continue in full force and effect.

U. ***Terms Binding.*** The terms and conditions of this Agreement are binding on any heirs, successors, transferees, and assigns.

ARTICLE XIV – REQUIRED FEDERAL CONTRACT PROVISIONS

The Contractor agrees to comply with the Required Federal Contract Provisions attached hereto as Exhibit B.

Government Agreements. This Agreement shall be subordinate to the provisions of any existing or future agreements between NOAB and the United States Government or other governmental authority, relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of Federal or other governmental funds for the development of the Airport, to the extent that the provisions of any such existing or future agreements are generally required by the United States or other governmental authority of other civil airports receiving such funds. NOAB agrees to provide Contractor written advance notice of any provisions that would adversely modify the material terms of this Agreement.

ARTICLE XV – COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement, but all of which, when taken together, shall constitute one and the same agreement.

ARTICLE XVI - ELECTRONIC SIGNATURE AND DELIVERY

The Parties agree that a manually signed copy of this Agreement and any other document(s) attached to this Agreement delivered by email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. No legally binding obligation shall be created with respect to a party until such party has delivered or caused to be delivered a manually signed copy of this Agreement. If the Agreement is delivered by email, the Agreement attached to the email must be a full color reproduction and signed in BLUE INK.

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[SIGNATURES CONTAINED ON NEXT PAGE]

IN WITNESS WHEREOF, the Airport and the Contractor, through their duly authorized representatives, execute this Agreement.

CITY OF NEW ORLEANS

BY: L.B. Cantrell
LATOYA CANTRELL, MAYOR

Executed on this 13th **of** August**, 2020**

FORM AND LEGALITY APPROVED:
Law Department

By: ____________________

Printed Name: Andrew Gregorian

Approved by resolution of the New Orleans Aviation Board dated **June 18, 2020** and directing the Chairman and Director of Aviation to execute the same:

NEW ORLEANS AVIATION BOARD

By: Michael Bagneris 7/30/2020

Hon. Michael Bagneris, Chairman Date

New Orleans Aviation Board

By: KC Dolliole 7-30-2020

Kevin Dolliole, Director of Aviation Date

New Orleans Aviation Board

Reviewed as to form and legality:

By: Michele Allen-Hart Digitally signed by Michele Allen-Hart DN: cn=Michele Allen-Hart, o=New Orleans Aviation Board, ou=Legal Department, email=mallen-hart@flymsy.com, c=US Date: 2020.07.30 10:22:17 -05'00'

Michele Allen-Hart Date

General Counsel and Deputy Director of Legal Affairs

New Orleans Aviation Board

ABM Aviation

BY: ______________________________

Scott Hutchison, Senior Vice President
ABM Aviation

____

FEDERAL TAX I.D. OR SOCIAL SECURITY NO.

[EXHIBITS A-C CONTAINED ON NEXT PAGES.]

EXHIBIT A

SCOPE OF SERVICES

The following is the scope of services as set forth in the RFP. For purposes of this Exhibit A, "Service Provider" as used herein shall refer to the Contractor.

A. Services:

The Airport expects Contractor will provide curbside management at the Airport. The Contractor will coordinate and manage:

- taxicabs,
- TNCs,
- off-airport parking shuttles, and
- pre-arranged commercial vehicle transportation services, including
    - hotel courtesy vehicles,
    - limousine/sedans,
    - crew shuttles, and
    - service vehicles.

Services include:

- vehicle dispatching,
- management of vehicles and drivers in the Airport-designated hold lot(s),
- curbside management of vehicles and passengers using the Airport's Ground Transportation Center,
- enforcement of Airport's Ground Transportation rules and regulations, and
- Any other reasonable function related to curbside management as designated by Airport.

All services will be supervised by the Airport's Landside Operations Department. Physical locations and posts are set by the Airport.

1. Taxicab and TNC Management and Facilitation:

Taxicabs and TNCs are required to stage in the Airport's designated hold lots. Taxicabs are dispatched to the terminal arrivals curb based on a first-come first serve basis for long-trips (meaning trips going to the City of New Orleans) or short-trips (meaning local trips not going to the City of New Orleans). Long-trip taxis must enter the terminal taxi cue lane to line up for curbside pick-up, which area holds approximately 20 taxis. Short-trip cabs are to be dispatched, as needed and will stage at a designated location identified by the Airport's Landside Operations Department. Contractor should have a sufficient number of personnel to monitor and manage the taxicab arrivals curbside location to insure that taxicabs are released from the hold lot in such intervals that do not congest the Airport arrivals roadway system and are not soliciting passengers from areas of the Airport other than the designated arrival curb pick-up location.

The Airport will have one taxi starter booth located on the arrivals curb that will serve as the taxi stand for passengers to pick-up a taxi. Service Provider will be required to staff the taxi stand with an ample number of personnel to provide taxi stand services to meet passenger demand. Service Provider's staff will hand out such materials to the public using a taxi as determined by the Airport. Currently, the Airport's taxi starter stand is generally staffed 7:00am to 12am, but remains open until approximately 45 minutes after the last fight arrives.

TNCs are to be released from the hold lot to the designated arrivals curb pick-up location in such intervals so that the Airport's arrivals curb will not be congested with traffic. There are approximately 360 feet of arrivals curb space allocated for TNC pick-ups. Any TNC dropping off a passenger must depart the Airport or proceed to the designated hold lot, as they are not allowed to wait curbside and/or bypass going to the hold lot by going to the designated arrival curb pick-up location. Service Provider must have a sufficient number of personnel to monitor and manage the TNC arrivals curbside location to insure that TNCs are released from the designated hold lot in such intervals that do not congest the Airport arrivals roadway system and are not soliciting passengers from areas of the Airport other than the designated arrival curb pick-up location.

2. Ground Transportation Center Management and Facilitation:

The Airport Ground Transportation Center (GTC) is located beneath the public departures curb. The GTC is split between 3 lanes with certain curbside allocations between the various transportation modes. The Airport's Landside Operations Department may modify the allocation from time to time depending on demand and level of expected operations. Pre-arranged sedan limousine service providers will stage in 20-designated spaces located in the short-term garage (ground floor), which is accessed from the GTC. Dwell period for pre-arranged sedan/limousine providers is limited to 20 minutes and they must be able to present a manifest and other information as required under the Airport Rules and Regulations.

Currently, the entry and exit from the GTC is planned to be controlled via the Airport's parking revenue control (SKIDATA) system. Authorized vehicles will enter from a designated gate-arm controlled entry lane and will be able to exit through two lanes at the exit plaza for the short-term garage.

3. General Requirements:

Service Provider shall provide an exceptional level of customer service, shall facilitate the ground transportation needs of the traveling public, including individuals requiring special transportation services (e.g., physically disabled, visually impaired, the elderly), and shall monitor the Airport's Ground Transportation operations 7 days per week 365 days per year. The curbside management operation will include the management and dispatching of taxicabs, as well as all other modes of transportation.

For the first year of this Agreement due to COVID-19 impact to passenger levels, the Airport's Landside Operations Department will identify the posts and coverage needed by Contractor which may differ from those identified hereinafter (see Article I regarding coordination between the parties regarding posts and coverage). As passenger activity levels increase, Contractor agrees to provide the staffing levels that are identified and required by the Airport to ensure the best passenger experience and management of curbside and ground transportation operations to meet the needs of the travelling public.

The following tasks further detail the requirements of the services required from the selected Service Provider:

a. Service Provider shall be responsible for the management and oversight of the Airport's commercial Ground Transportation operations/operators to include taxis, limousines, pre-arranged shuttles, TNCs, hotel shuttles, off-airport parking shuttles, charter buses and other Airport decaled/authorized ground transportation operators. The Service Provider will monitor the Ground Transportation operation locations to ensure all users are in compliance with the Airport's Rules and Regulations and all established Ground Transportation policies and procedures including those prohibiting solicitation. Management and oversight is hereby defined as staffing appropriate personnel, dispatching vehicles, ensuring vehicle and driver compliance, customer service assistance, report management and generation, crowd control/congestion mitigation, vehicular and pedestrian traffic control, distressed passenger assistance and all other aspects as determined by Airport to ensure an efficient and safe operation in all areas.

b. The Service Provider shall manage and staff the following designated Ground Transportation areas (times are estimated and subject to change by Airport Landside Department to meet the needs of the travelling public):

Key Locations:	**# of staff**	**Hours**
Taxi / Rideshare (TNC) Hold Lot	**2**	**7:00AM - 12 Midnight**
Taxi Stand	**3**	**7:00AM - 12 Midnight**
Ground Transportation Curbside	**3**	**7:00AM - 12 Midnight**
TNC Curbside Staging Area	**1**	**7:00AM - 12 Midnight**

The Airport's Landside Operations Department management may modify such locations and hours as may be necessary to provide proper coverage for ground transportation services at the Airport. The successful proposer must provide sufficient personnel and management to staff and oversee all posts and locations.

c. The Service Provider shall hire a sufficient number of employees to fully staff all shifts for all post positions on a daily basis. Staffing shall cover 365 days per year with additional personnel made available for services as needed for large conventions, holiday travel periods, and other events in New Orleans and the surrounding areas. The Service Provider shall provide adequate breaks and coverage to ensure that all locations are properly staffed at all times.

d. Every month the Service Provider shall submit a staffing plan report to the Airport's Landside Department outlining all post positions that were filled during the previous month and a projection of posts to be filled during the next one month period.

e. The Service Provider shall manage and staff the taxi stand, which is the loading zone for all taxis at the terminal. The taxi stand shall be staffed with a minimum of three (3) uniformed agents approximately eighteen hours (18) per day (7am till 12-midight), including weekends and holidays. However, the taxi stand must remain open and staffed with no less than two (2) uniformed agents until 45 minutes after the latest arrival.

f. The Service Provider shall staff a minimum of one (1) uniformed agent on the arrivals curbside in the designated TNC curbside staging area to monitor TNCs. This agent will be responsible for communicating with the agent in the hold lot about the availability of curb space for TNC release from the lot. This position must be filled during the times outlined above, including weekends and holidays.

g. The Service Provider shall staff a minimum of two (2) uniformed agent at the Taxi /Rideshare (TNC) hold lot. This agent will be responsible for releasing taxis and TNCs from the hold lot to the designated arrivals areas in such frequency so as to not cause traffic congestion on the arrivals roadway system. This position must be filled during the times outlined above, including weekends and holidays.

h. The Service Provider shall staff a minimum of three (3) uniformed agents for the Ground Transportation Curbside. These positions must be filled during the times outlined above, including weekends and holidays.

i. The Service Provider shall have an on-site working supervisor eighteen (18) hours per day including weekends and holidays. The supervisor shall be responsible for performing the work of the uniformed agents and will provide coverage for any post that does not have sufficient coverage. Moreover, the supervisor shall assist during peak passenger traffic periods to facilitate ground transportation services.

j. The Service Provider's Manager shall be on-site between the hours of 9:00am and 6:00pm, Monday through Friday to ensure daily oversight and management of the operation in accordance with the business and operational hours of the Airport's Landside Operations Department. In addition, they shall be on-call 24 hours per day including weekends and holidays to respond to all Ground Transportation operation emergencies and issues. In the event there is a need to replace the on-site manager identified at the time of execution of the Agreement (or any other member of the on-site management team) either due to a request by the Airport for such change or for other reasons identified by the Service Provider, the Service Provide shall provide the names and resumes of proposed qualified and experienced candidates for review and ultimate approval by the Airport. It is agreed that there will not be a permanent change unless the Service Provider obtains prior written approval and consent of the replacement by the Airport's Deputy Director of Operations and Maintenance.

k. The Service Provider shall maintain proper communication between its operations and Airport's Landside Operations management offices via hand-held radios. Managers and supervisors should be accessible to the Airport's Landside Operations Department staff by cellular phones.

l. The Service Provider shall ensure that all vehicles entering the GTC have the authorized Airport decal (or other authorization) and, as applicable, transponders to allow access to the GTC. The Service Provider shall monitor and manage all traffic as required in the GTC directing pedestrian and vehicular traffic, setting up and taking down cones or barricades, and erecting or replacing delineators. The Service Provider shall ensure that the GTC does not congest the terminal roadways and shall promptly address any concerns through the Airport's Landside Operations and Security Departments. As may be necessary, Service Provider's uniformed personnel may be needed to direct traffic during any period of roadway congestion caused by ground transportation operations.

m. The Service Provider shall ensure that there is no traffic congestion caused by the dispatching of too many taxis and/or TNCs. Service Provider shall dispatch taxis from the hold lot to meet customer demand. Service Provider shall dispatch TNCs from the designated hold lot in such frequency as to not overwhelm traffic on the arrivals curb. Service Provider Agents shall respond to all congestion at the entry gates whenever the hold lot is full and take appropriate action to mitigate its effect.

n. The Service Provider shall manage peak convention, holiday, New Orleans tourist events, and distressed passenger traffic through proper staffing, vehicle dispatching and crowd control. Service Provider staff will be required to work overtime if necessary to address operational needs as approved by the Airport.

o. The Service Provider shall assist in keeping the loading areas within the GTC clean. The service provider will ensure the removal of wheel chairs and Smarte Carts to ensure a safe and hazard-free efficient operation.

p. The Service Provider shall provide pedestrian and vehicular traffic control within the GTC at all times, especially during periods of heavy pedestrian and vehicular movement. This will ensure safe and expeditious movements throughout all Ground Transportation operations.

q. The Service Provider shall submit daily and weekly reports to the Airport's Landside Operations Department managers highlighting any and all operational issues and shall complete incident reports for any and all incidents or non-compliance within Ground Transportation operations.

r. The Service Provider will contract with a vehicle towing service to move vehicles in an emergency, move parked vehicles that impede traffic/operations or are parked illegally in the GTC and holding lots.

s. The Service Provider shall keep clean any and all facilities provided for the use of its personnel in the performance of the services required hereunder. Any issues or maintenance/repair items shall be promptly reported to the Landside Operations Department. Service Provider's use of the facilities provided by the Airport shall in no way be deemed to be a lease of the areas.

t. All lost articles found by the Service Provider, its agents or employees, or that are found by Ground Transportation operators, taxis, TNCs or patrons and given to the Service Provider that remain unclaimed, shall be turned over to the Airport Lost and Found Office as soon as possible but no longer than within twenty-four (24) hours of the item coming into Service Provider's possession. The Service Provider, its agents, and employees shall have no right to reclaim said articles.

u. The Service Provider shall promptly investigate and resolve all complaints about service by their employees. The Service Provider shall furnish the Airport's Landside Operations department with a copy of the complaint, the Service Provider's documentation of its investigation of the complaint, and its written response within forty-eight (48) hours. The Service Provider shall maintain throughout the duration of the contract a computerized database of compliments and complaints, which shall be made available to the Airport upon request. Similarly, Service Provider shall investigate and respond to any customer service complaints received directly by the Airport in relation to ground transportation operations.

v. Service Provider employees will be allowed to park in the Airport's designated employee parking lot, with the cost (if any) borne by the Service Provider or its personnel. At this time, there is no cost for employee parking.

w. The on-site Manager shall meet not less than bi-weekly (or such other frequency as decided by the Airport) with the Landside Operations Department managers and report on all activities. The Service Provider shall participate in construction activity coordination meetings, crowd control meetings, and other meetings deemed necessary by the Airport.

x. The rights granted under the contract are not exclusive and the Airport reserves the right to contract with others for Ground Transportation related services without obligation to engage Service Provider, to staff or manage those additional operations, to change the Service Provider's Management Fee, or any other obligation whatsoever.

y. The Service Provider shall employ professional, well-trained staff, to assure a high standard of service to fulfill its obligations under the contract. The Service Provider shall use reasonable care to employ and retain employees who are qualified, competent, and trustworthy. As a minimum the Service Provider shall, prior to hiring an applicant, determine the compatibility of the applicant working in a customer service environment, test each applicant for the presence of illegal drugs and the presence of legal drugs in excess of medically approved standards, and examine the applicant's conviction record to determine instances of prior criminal convictions that would disqualify the applicant for a position of public trust. Results of drug tests for each employee must be available for inspection by the Airport. Employee background checks shall comply with all state, local, and Federal employment requirements. All employees are required to have an Airport Badge (non-SIDA). Information about application process, requirements and fees associated can be found at: www.flymsy.com/business/working-st-msy/badging-info. The costs for the issuance of Airport ID badges for its personnel shall be borne by the Service Provider.

z. The Service Provider shall not employ or retain in its service, or permit to remain on the premises, any person reasonably and for good cause found by the Airport to be objectionable or unfit for employment. This includes the responsibility to handle late flight conditions and to provide additional coverage beyond the normal schedule to maintain the stated service levels at all times, including those periods of abnormal activity patterns.

aa. The Service Provider shall select and propose an on-site manager whose primary responsibility shall be the coordination of the day-to-day operations of the program and oversight of all supervisors. The manager will report to and work closely with the Airport's Landside Operations management to ensure the success of the services. Proposer may suggest other on-site management level positions, with a clear description of the duties and responsibilities of each such position. To effectively monitor the performance, the manager must: ensure employees have all required uniform items to include Security Badges, prior to deployment at the airport; work at least two (2) weekend days and two (2) evenings each month; make daily rounds of all locations where services are rendered to monitor performance and appearance; resolve employee's administrative concerns as quickly as possible, preferably within two (2) business days; adhere to disciplinary action procedures as outlined in the Employee Handbook provided by the Service Provider; maintain detailed records of training and disciplinary actions; ensure that incentives are provided in accordance with the approved recognition program. The Airport reserves the right to approve the selection of the manager and any other management level positions. If the Airport finds candidates unacceptable, the Service Provider shall propose other candidates until an acceptable candidate is found.

bb. Employees who come in contact with customers must be uniformed and must always wear a name badge (First name and last initial) at all times such employee is on Airport property while on duty, on break, arriving for workor leaving work. The manager is not required to wear a uniform; however, he/she must wear business professional attire at all times while working on the Airport premises and must display an airport badge.

cc. The Service Provider shall fully train all personnel prior to their beginning work at the Airport. This includes customer service training.

dd. Every employee of Service Provider who is expected to regularly communicate with members of the public or with Airport staff shall be able to communicate verbally and in writing in clearly understandable English.

ee. All media inquiries shall be directed to the Airport's Communications Director.

ff. Service Provider will be assigned, without charge, an office area on the south campus of the Airport for conducting its operations and management of the services to be provided hereunder. The Airport reserves the right to require relocation and/or to make modifications and/or changes to space provided without cost or expense to the Airport.

gg. Service Provider shall obtain and provide, subject to prior Airport approval (see Article IV), radio equipment for its personnel and supervisors as part of its standard equipment. Service Provider is responsible for daily radio inventories at the beginning and end of each shift. Inventory reports should be available to the Airport's Landside Operations department.

hh. Any Airport equipment assigned for use by the Service Provider is, and shall remain, the property of the Airport. The Airport may authorize or direct Service Provider to purchase additional replacement equipment for the Airport as a Reimbursable Expense. Title to such equipment shall vest in the City immediately upon purchase. Service Provider shall keep all equipment in good working order, normal wear and tear excepted.

ii. Any equipment assigned to Service Provider by the Airport that is lost, stolen or destroyed shall be reported to the Airport no more than twenty-four (24) hours after Service Provider becomes aware of the lost, stolen or destroyed equipment. Service Provider shall be responsible for the replacement and cost of any lost, stolen or destroyed Airport equipment assigned to Service Provider.

jj. Service Provider shall purchase, at its own expense if not otherwise provided by the Airport, office equipment for its own use in managing the services. Such office equipment purchased by Service Provider will remain the property and be serviced by the Service Provider unless said property is so integrated into the building of the Airport so as to become its component parts. Service Provider is responsible for providing all office consumables (i.e., paper, general office supplies, janitorial, etc.) needed for its operations. The costs of same are included in the Management Fee and shall not be invoiced separately by Service Provider nor reimbursed separately by the Airport.

kk. The Service Provider shall, at no additional cost or expense to the Airport, have vehicles to expeditiously move around the operation and all locations where services are provided.

ll. The Service Provider will be required to maintain all equipment in good functional condition throughout the term of the curbside management agreement, failure to maintain the equipment will subject the Service Provider to paying all costs necessary to repair or replace such equipment.

4. Additional Responsibilities and Requirements:

The Service Provider's assigned curbside management and facilitation personnel will enforce the Airport's Rules and Regulations as well as landside loading and staging rules, coordinate passenger pick-up and drop-off areas, and all other passenger ground transportation. The selected proposer will provide all technology, personnel, materials, tools, supplies, equipment, uniforms, vehicles, transportation, supervision, technical and professional services and all operations necessary to provide professional curbside management services.

Curbside facilitators and agents must be trained to provide exceptional customer service to arriving passengers. This includes assisting passengers at crossing areas and coordinating loading and staging areas for hotel and car rental buses, on-demand shuttles and limousines, buses, pre-arranged shuttles and limousines, vans and passenger taxis. Curbside personnel will also aid in coordinating transportation services for those with special needs (e.g., physically disabled, visually impaired and the elderly).

Service Provider shall maintain a comprehensive training program(s) to provide a consistent and high level of customer service to ground transportation providers and the travelling public. The program must include processes and procedures for handling customer verbal, written and telephone complaints and for resolving issues with taxicab operators and situations between other ground transportation operators and/or curbside customers.

Service Provider may recommend from time to time ground transportation and curbside management technology that could be deployed. Such technology should be targeted to improve the level of service, such as automated dispatching services, virtual taxicab cueing, and tracking of app-based and traditional "for-hire" transportation. Contractor will submit a proposal for consideration by the Airport outlining the benefits of the technology and total cost for deployment (including installation and any continuing licensing or other costs and Service Provider's mark up or profit). No technology shall be deployed without advance written approval of the Airport and an allocation of funds to cover the costs. If approved, such costs shall be amortized by Contractor over the remaining term of the Agreement. Upon receipt of full payment by the Airport, such technology shall become the property of the Airport

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EXHIBIT B

TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN

THE CITY OF NEW ORLEANS

BY AND THROUGH THE NEW ORLEANS AVIATION BOARD

AND

ABM Aviation

The Contractor (referred to as "Contractor" in this Exhibit) agrees to comply with the following required federal contract provisions:

A. ***General Civil Rights Provisions.*** The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

B. ***Title VI – Compliance with Nondiscrimination Requirements.*** During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations**: The Contractor (hereinafter includes contractors) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination**: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor 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.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports**: The Contractor 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 a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will

so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

   i. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

   ii. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions**: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

C. ***Title VI List of Pertinent Nondiscrimination Acts and Authorities.*** During the performance of this contract, the Contractor, 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:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 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);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
6. 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);
7. 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);

8. 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
11. 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);
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

D. ***Fair Labor Standards Act.*** All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, 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 Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

E. ***Occupational Safety and Health Act of 1970.*** All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and its subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

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EXHIBIT C

MANAGEMENT FEE AND HOURLY RATES

Management Fee:

Year 1 - $531,416.00

For year one of this Agreement, the Management Fee includes the amount of $30,000 for radios, computers, and uniforms. The Contractor's expenditure and inclusion for the costs in the invoices for these items is subject to Article IV, Section A.6. For purposes of invoicing, Contractor shall only bill 1/12th of the sum of $501,416 for the Management Fee and will separately bill the amount(s) for the additional items listed above as approved in advance by the Airport.

Based on potential residual COVID-19 impacts to Airport passenger activity for years 2 and 3, Contractor identified a reduced Management Fee for year 2 of $503,777 and $519,578 for year 3. The Airport and Contractor will negotiate the Management Fee for that particular year given residual COVID impacts and levels of passenger activity projected for that year. However, Contractor agrees that if passenger activity increases back to pre-COVID-19 levels or greater, the Management Fee shall not exceed the amount proposed in its response to the RFP. If the Parties are unable to negotiate the Management Fee for years 2 or 3 30 days prior to the start of each year, either party may terminate this Agreement with 30 days' notice.

Hourly Rates:

The following are the hourly rates for the categories of personnel engaged in the performance of the scope of services:

	Year 1	**Year 2**	**Year 3**	**(Extension Year 1)***	**(Extension Year2)***
General Manager	$44.40	$45.73	$47.10	$48.52	$49.97
Supervisors	$20.99	$21.62	$22.27	$22.94	$23.62
Uniformed Agent (Dispatchers)	$17.48	$18.00	$18.54	$19.10	$19.67
Operations Manager	$33.18	$34.18	$35.20	$36.26	$37.34
Human Resources / Training Coordinator	$26.48	$27.30	$28.50	$29.03	$29.94
Payroll / Customer Service Administrator	$24.76	$25.50	$26.27	$27.06	$27.87

* The exercise of the extension of the initial 3 year term of this Agreement for two additional years is subject to Article V.