



**REQUEST FOR PROPOSALS  
for  
NETWORK PROGRAMMING  
for  
THE CITY OF PHILADELPHIA**

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Issued by:  
THE CITY OF PHILADELPHIA (“City”)  
PHILADELPHIA INTERNATIONAL AIRPORT (“PHL” or “Airport”)

**Proposals must be received no later than 5:00 PM Philadelphia, PA, local time,  
on June 9, 2016.**

**Questions Due: May 13, 2016 by 5:00 PM**

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James F. Kenney, Mayor  
Rochelle L. Cameron, Chief Executive Officer, Philadelphia International Airport

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## I. Project Overview

### A. Introduction/Statement of Purpose

The City of Philadelphia (“City”), Department of Commerce, Division of Aviation (“Aviation”) seeks qualified Applicants (“Applicant(s)”) to provide, install and maintain all service equipment necessary to provide network programming package (“Network Programming”) at the Philadelphia International Airport (“PHL”).

### B. Department Overview

The City administers the day-to-day operations of the Airport through Aviation, under the direction of its Chief Executive Officer (“CEO”). The Deputy Director of Aviation, Property Management/Business Development, or their designee, will manage the work performed by the Applicant(s).

The name, address, and contact information for the City's Primary Contact for this Request for Proposals (“RFP”) is as follows:

Mr. Alec Gever  
Philadelphia International Airport  
Terminal D/E 3rd Floor  
Philadelphia, PA 19153  
[Alec.Gever@phl.org](mailto:Alec.Gever@phl.org)

### C. Project Background

#### 1. Philadelphia Airport System:

PHL is the only major airport serving the 6th largest metropolitan area in the United States. The Airport is classified by the Federal Aviation Administration (“FAA”) as a large air traffic hub. A large hub is defined by the FAA as a community that enplanes 1.0% or more of the total passengers enplaned on certificated airlines in the United States. According to data reported by Airports Council International – North America, PHL was ranked the nineteenth busiest airport in the United States, serving 30.7 million passengers in Calendar Year 2014, and was ranked the twelfth busiest in the nation based on aircraft operations (take-offs and landings). Origin-destination traffic for Calendar Year 2014 accounted for approximately 57% of annual passengers, with the remaining 43% being passengers who connected between flights. General information may be viewed at the Airport website: [www.phl.org](http://www.phl.org). Monthly statistics detailing passenger traffic and aircraft operations may be viewed at the Airport’s Activity Reports:

[www.phl.org/Business/ReportsPlans/Pages/activityReports.aspx](http://www.phl.org/Business/ReportsPlans/Pages/activityReports.aspx). An analysis of passenger traffic over the last five (5) years by terminal is provided in *Appendix F*.

During July 2015, PHL's peak season, an average of 24 airlines served the airport and provided more than 550 daily nonstop departures to 132 destinations, including over 50 nonstop daily departures to 37 international destinations.

The Airport serves residents and visitors from a broad geographic area that includes eleven counties within four states: Pennsylvania, New Jersey, Delaware and Maryland. The Airport is easily accessible by car and public transportation. The Airport is directly linked to ramps from Interstates 95 and 76 and the SEPTA Airport Rail Line provides direct service to and from Center City Philadelphia, from stations accessible from all terminals. The Airport system consists of the following:

**a. Philadelphia International Airport:**

- **Land:** Approximately 2,394 acres located partly in the Southwestern section of the City and partly in the Northeastern section of Delaware County, about 7.2 miles from Center City Philadelphia.
- **Runways:** The Airport's runway system consists of parallel Runways 9L-27R and 9R-27L, crosswind Runway 17-35, commuter Runway 8-26, and interconnecting taxiways.
- **Terminal Buildings:** The Airport consists of approximately 3.3 million square feet between Terminals A-West, A-East, B, C, D, E and F. Terminal buildings principally include: ticketing areas, passenger holdrooms, baggage claim areas and approximately 170 food, beverage, retail, and service establishments.
- **Other Buildings and Areas:** The Airport is host to six (6) active cargo facilities, an American Airlines aircraft maintenance hangar, and a former United States Postal Service building located at the Western end of the Airport.
- **Outside Terminal Area:** The Airport is host to a 400-room hotel, seven (7) rental car facilities, a 150-vehicle cell-phone lot, two (2) employee parking lots containing 4,200 spaces, and five (5) parking garages and surface lots offering a total of 18,940 vehicle spaces, separately operated by the Philadelphia Parking Authority.

**D. Request for Proposals**

Aviation is soliciting proposals from experienced and qualified Applicants with demonstrated experience providing network programming services in other airports.

**E. General Disclaimer of City**

This RFP is not binding on the City . The City assumes no contractual or other obligations as the result of the issuance of this RFP. No Applicant responding to this RFP, or other party, is granted any rights under this RFP.

This RFP does not commit the City to award a contract ("contract" or "concession agreement"). This RFP and the process it describes are proprietary to the City and are for the sole and exclusive

benefit of the City. No other party, including any Applicant, is intended to be granted any rights hereunder. Any response, including written documents and verbal communication, by any Applicant to this RFP, shall become the property of the City and may be subject to public disclosure by the City, or any authorized agent of the City. The City is not liable for any costs incurred by Applicants in preparing and submitting a proposal in response to this RFP or for any costs and expenses incurred in meeting with, or making oral presentations to the City if so requested.

## II. Scope of Work

### A. Project Details

Aviation's objective is for the successful Applicant(s) to be solely responsible for providing, installing, maintaining, and producing, at its sole cost, all service equipment as necessary to provide Network Programming at the Airport. Network Programming should include a combination of information and entertainment television programming material that is professionally produced by the network provider. The Applicant must use good faith efforts to include Airport Concession Disadvantaged Business Enterprise ("ACDBE") participation in the services it proposes in response to this RFP (for more information see *Appendix B*). The Applicant's proposed scope of work should address each objective specifically and describe in detail how the Applicant will achieve the objective, or how the Applicant will enable Aviation to achieve the objective.

This *Section II* states requirements for the project, including the services and the tangible work products to be delivered, and the tasks Aviation has identified as necessary to meet those requirements. Aviation reserves the right, however, to modify specific requirements, based on changed circumstances (such as a change in business or technical environments), the proposal selection process, and contract negotiations with the Applicant(s) selected for negotiations, and to do so with or without issuing a revised RFP. The Applicant must provide in its proposal a detailed proposed scope of work showing how it will meet the project requirements stated in this *Section II*.

### B. Services and Tangible Work Products

Aviation requires at least the services listed below, including any ACDBE participation that will be part of the services provided and the specific tasks and work activities described. Applicant's proposed scope of work should state in detail how it will carry out each task, including the personnel/job titles responsible for completing the task. For each service specified, the Applicant should propose criteria to determine when the tasks comprising the service are satisfactorily completed. Applicants may propose additional or revised tasks and activities, but should explain why each is necessary to achieve the project objectives. Typical assignments may include, but are not limited to:

1. **Equipment:** The successful Applicant(s) shall, provide, install, and maintain all equipment that is necessary to provide Network Programming;
2. **Program Content:** The successful Applicant(s) shall provide continuous audio and video programming packages consisting of news, information, and entertainment television programming. The program content will also cooperate with any Airport and airline paging systems; and
3. **Staffing:** The successful Applicant(s) shall provide the appropriate levels of staff to perform all installation and maintenance of equipment used to provide Network Programming. The successful Applicant(s) shall also provide appropriate levels of staff to

perform any task that the successful Applicant(s) wish to perform as the successful Applicant(s).

**C. Hours and Location of Work**

The successful Applicant(s) is expected to broadcast twenty-four (24) hours a day, seven (7) days a week. Network Programming will be installed at specified areas within the Airport terminal building, including passenger gate areas.

**D. Monitoring; Security**

By submission of a proposal in response to this RFP, Applicant agrees that it will comply with all contract monitoring and evaluation activities undertaken by the City, and with all security policies and requirements of the City and the Transportation Security Administration (“TSA”). Applicants are required to comply with Section 7 of the Airport Rules and Regulations regarding Airport Security. To review Section 7, contact Airport Security at 215-937-5452. The Applicant’s personnel will be required to display in full view a specific identification badge to be issued by Aviation. Background checks of personnel will be required. Background checks, fingerprinting (\$32), and badging (\$33) costs for each employee are the responsibility of the Applicant. In the event that the Applicant is privy to any Airport security information, the Applicant and all of its personnel and subcontractors (if any) shall be subject to Title 49 Code of Federal Regulations (CFR) Part 1520. Security will be maintained in accordance with TSA Regulations under the provisions of 49 CFR 1542. Failure to comply with the City’s and TSA’s rules and regulations shall be a material breach to the contract and, in addition to all other rights and remedies of the City under the contract, at law or in equity, the City shall be entitled to terminate the contract without liability to the City, and upon such termination, the Applicant shall be liable to the City

for all outstanding fees and charges and all costs, including attorney costs, expenses and damages arising out of such termination.

#### **E. Reporting Requirements**

The City requires the following reports to be created and delivered by the successful Applicant(s) during their time as the Network Programming provider:

1. **Monthly Concessionaire Report:** include staff levels, an accounting of gross revenues, and a schedule of all advertising equipment listing its current as, content, term, and rate;
2. **Quarterly Programming Report:** provide the full schedule of network programming for the upcoming quarter; and
3. **ACDBE Reports:** as set forth in *Appendix B* and the concession agreement.

#### **F. Concession Fee**

The annual concession fee will consist of either a a Minimum Annual Guarantee (“MAG”) or a percentage of annual gross revenues, whichever is greater. Each proposal submitted in response to this RFP must contain a proposed MAG and a proposed percentage of annual gross revenues.

Additionally, Applicants must provide information showing an Applicant’s financial capacity to construct and provide Network Programming as well as an Applicant’s ability to pay the MAG or proposed percentage of annual gross revenues.

#### **G. Organization and Personnel Requirements**

Each proposal must identify all personnel who will perform work on the project, by education level, a detailed description of each employees skill set and experience level and job title. Aviation expects the succesful Applicant(s) to appoint a point of contact for both construction and programming tasks.

### III. Proposal Format, Content, and Submission Requirements; Selection Process

#### A. Proposal Format

Proposals must include a cover letter signed by the person authorized to issue the proposal on behalf of the Applicant. The Applicant must submit one (1) signed original, and seven (7) copies to the City's Primary Contact for this RFP as listed in *Section I.B* by the deadline specified in *Section IV.A, Procurement Schedule*. Submission by facsimile, by electronic mail or by any form of unauthorized communication will not be accepted. Proposals are to be submitted on 8½" x 11" paper with comb-style, coil or spiral binding. Limit your proposal, including all attachments, to one volume, less than one (1) inch thick. In addition, a complete digital copy of the proposal must be submitted on a virus-free and fully functioning USB flash drive. Please prepare and plan accordingly to ensure a timely submission of your proposal. Late submissions will not be accepted.

The proposal is to contain the following tabbed and indexed sections in the order indicated:

1. **Cover Letter:** Signed by the person authorized to issue the proposal on behalf of the Applicant.
2. **Table of Contents.**
3. **Introduction/Executive Summary:** The Executive Summary shall, at a minimum, include a summary of the proposed approach to the work, identification of the proposed project team, responsibilities of the project team and each member's respective responsibilities. This section should highlight aspects of the proposal that are superior or unique in addressing the needs of PHL.
4. **Applicant Profile:** Provide a narrative description of the Applicant itself, including the following:
  - a. Applicant's business identification information, including:
    - Name and title of individual submitting the proposal;
    - Name of company;
    - Company office address;
    - Website address;
    - Federal taxpayer identification number or federal employer identification number;
    - Number of employees; and
    - Daytime phone number, fax number and email address;
  - b. A primary contact for the Applicant, including name, job title, address, telephone and fax numbers, and email address;
  - c. A description of Applicant's business background, including, if not an individual, Applicant's business organization (corporation, partnership, LLC, for profit or not for profit, etc.), whether registered to do business in Philadelphia and/or Pennsylvania, country and state of business formation, number of years in business, primary mission

- of business, significant business experience, whether registered as a minority-, woman-, or disabled-owned business or as a disadvantaged business and with which certifying agency, and any other information about Applicant's business organization that Applicant deems pertinent to this RFP. If a corporation, provide the date and state of incorporation and the name(s) and professional address (es) of those authorized to negotiate for the Applicant. If a partnership, provide the date, type of partnership, and list each general partner owning more than five percent of the partnership. If a joint venture, provide the date of organization and the location where the agreement is recorded, and the names, addresses and percentages of ownership. The Applicant shall provide evidence that it is authorized to engage in business transactions in the Commonwealth of Pennsylvania or provide assurance that it will obtain such authority upon award;
- d. State the number of years that the Applicant has operated under its current name and any former names under which the Applicant has operated, and the years those names were in use;
  - e. Describe in detail any instances if or when Applicant was barred from any City or any municipal program; and
  - f. In order to have the foregoing ownership counted toward ACDBE participation, the Applicant must be a PaUCP certified ACDBE or a joint venture with a PaUCP certified ACDBE owner. In accordance with U.S. Department of Transportation regulations 49 CFR Part 23, the FAA's Joint Venture Guidance (July 2008) and the City's PHL ACDBE Program, such joint ventures must be approved by the City before any concession agreement is executed.
5. **Project Understanding:** Provide a brief narrative statement that confirms Applicant's understanding of, and agreement to provide, the services and/or tangible work products necessary to achieve the objectives of the project that is the subject of this RFP. Applicant shall describe how the Applicant's business experience will benefit the project;
  6. **Statement of Qualifications; Relevant Experience:** Provide a statement of qualifications and capability to perform the services sought by this RFP, including a description of relevant experience with projects that are similar in nature, size and scope to that which is the subject of this RFP. Applicant must include a statement confirming that Applicant meets the minimum requirements elaborated in this RFP. Applicant must provide information on quality monitoring programs that the Applicant has implemented at other venues, including both descriptive information and sample evaluation forms from quality audits, performance standard evaluations or other similar programs. The Applicant must also include the names and addresses of all facilities where Applicant maintained network

programming services during the previous ten (10) years. Please provide the following for each facility:

- a. Name of the owner;
  - b. Description of services provided;
  - c. When the Applicant provided the services;
  - d. Annual contract value;
  - e. Management fees or other compensation; and
  - f. Point of contact for each facility (name, address and telephone number).
7. **References:** Provide at least three (3) references, preferably for work assignments, within the last five (5) years, similar in scope and nature to the types of services listed in *Section II*. The contact information should include:
- a. Name and title of reference;
  - b. Name of company/agency;
  - c. Company address, phone and fax numbers; and
  - d. Email address for the individual contact person, not the company generic address/website (City of Philadelphia employees cannot refer any Applicant).
8. **Work Plans:**
- a. **Staffing Plan:** Provide an organizational chart for the proposed team, identify key team members, and define where work will be performed. Applicants should provide a listing and number of staff members for the prime Applicant and each subconsultant who are expected to be assigned to work under this contract, with title and description of each person's duties. The list should clearly indicate the Airport's contact and measures taken to maintain client service continuity and satisfaction. The list will also include specific owners and officers and/or partners authorized to bind the company to the provisions of the proposal;
  - b. **Equipment Plan:** Provide a detailed description of all equipment including number, type, design, color and quantity of equipment to be used;
  - c. **Programming Plan:** Provide a detailed description of the content to be provided and a proposed schedule;
  - d. **Transition Plan:** Provide a detailed plan to ensure a seamless transition at the commencement of the concession agreement, which includes, but is not limited to,

- installation of proposed fixtures and any other coordination issues with the current provider and a phasing plan for the installation of the proposed equipment.
- e. **ACDBE Participation Plan:** Provide the documents set forth in *Appendix B* regarding the participation of ACDBEs in the performance of the concession agreement or Request a Good Faith Efforts Review. (See *Section III.B* and *Appendix B* for more information).
9. **Proposed Subcontractors:** State the intention to use subcontractors to perform any portion of the work sought by this RFP. For each such subcontractor, provide the name and address of the subcontractor, a description of the work Applicant intends the named subcontractor to provide, and whether the subcontractor is Pennsylvania Uniform Certification Program (“PaUCP”) certified as an ACDBE and, if certified, what commercially useful function the subcontractor will provide as required by *Appendix B*. Note that if subcontractors at any tier may perform services arising directly out of a City contract resulting from this RFP, Applicants must inform them of the City’s minimum wage and benefits requirements and must require them to comply with such requirements (see *Section III.E* and *Section III.F* for more information);
  10. **Concession Fee:** In accordance with *Section II.F*, define and describe the terms and conditions for payment of the MAG and/or a percentage of annual gross revenues to the City.
  11. **Administrative Documents:**
    - a. **Airport Concession Disadvantaged Business Enterprise (“ACDBE”) Schedules and Certifications:** Pursuant to Title 49 of the Code of Federal Regulations (“CFR”) Part 23, as amended, each Applicant must certify that it shall not discriminate against any business owner on the basis of the owner’s race, color, national origin or sex in connection with the selection of Applicant or performance of any concession agreement entered into as the result of Applicant’s selection by City, or management contract, or subcontract, purchase or lease agreement covered by 49 CFR Part 23. In addition to the Certification of Diversity Compliance, Applicants must complete the following documents in *Appendix B*, either: (i) the Schedule for ACDBE Participation; or (ii) the Request for Good Faith Efforts Review documents, including the Schedule for Partial Participation by ACDBEs and the Certification of the Unavailability of ACDBEs (see *Section III.B* for more information);
    - b. **Tax and Regulatory Status and Clearance Statement:** Include a statement in the form requested in *Appendix C*, attesting to Applicant’s tax and regulatory compliance with the City (see *Section III.C* for more information);
    - c. **Disclosure of Litigation; Disclosure of Administrative Proceedings:** State, for the 5-year period preceding the date of this RFP, a description of any judicial or administrative proceeding that is material to Applicant’s business or financial capability or to the subject matter of this RFP, or that could interfere with Applicant’s performance of the work requested by this RFP, including but not limited to, any civil,

criminal or bankruptcy litigation; any debarment or suspension proceeding; any criminal conviction or indictment; and any order or agreement with or issued by a court or local, state, or federal agency. For each such proceeding, state the name of the case or proceeding, the parties involved, the nature of the claims involved, its current status and the final disposition, if any. Provide the same information for any officer, director, principal, or partner of Applicant's organization, and for any subcontractor Applicant plans to use to perform the services described in this RFP;

- d. **Statement of Financial Capacity:** Provide documentation demonstrating fiscal solvency and financial capability to perform the work sought by this RFP. Consider providing one (1) or more of the following:
- General statement of the Applicant's financial condition;
  - Applicant's most recent audited or unaudited financial statements;
  - Disclosure of any bankruptcy filings over the past five years; and
  - Most recent IRS Form 990 (for non-profit organizations only); and
- e. **Local Business Entity or Local Impact Certification:** If applicable, Applicant may elect to provide the certification statement in the form of *Appendix E* as to Applicant's status as a Local Business Entity or its local impact if awarded the contract (see *Section III.E* for more information).
- f. **Defaults:** Provide a description, in detail of any situation occurring within the past five (5) years in which the Applicant, or a joint venture or partnership of which Applicant was a part, defaulted or was deemed to be in noncompliance of any contractual obligations, explaining the issues involved in the default, the outcome, the actions taken by the Applicant to resolve the matter. Also, provide the name, title and telephone number of the party to the contract who asserted the event of default or noncompliance or the contact information for the individual who managed the contract for that party; and
- g. **Insurance:** List all the insurance that is planned to be carried and show that the requirements of *Appendix D* have been met.

## **B. Participation of Disadvantaged Business Enterprises**

This RFP is issued under the regulations of the U.S. Department of Transportation ("U.S. DOT"), 49 C.F.R. Parts 23 and 26, as amended. It is the policy of the City of Philadelphia and U.S. DOT that certified ACDBEs, as defined in 49 CFR Part 23, as amended, shall have a fair opportunity to participate in the performance of airport concessions contracts, which relate to federal funds received by PHL since 1988 and which funds were authorized under Title 49 of the United States Code.

Applicants must use their best efforts, as evidenced by completion of the mandatory forms in *Appendix B*, to include services in their proposals, which represent meaningful participation by

ACDBEs. Said ACDBE Participation must comply with the requirements of 49 CFR Parts 23 and 26, and *Appendix B* of this RFP.

### **C. The Philadelphia Tax and Regulatory Status and Clearance Statement**

It is the policy of the City of Philadelphia to ensure that each contractor and subcontractor has all required licenses and permits and is current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation of other regulatory provisions contained in the Philadelphia Code. To assist the City, through its Department of Revenue and Department of Licenses and Inspections, in determining this status, each Applicant is required to submit with its proposal the certification statement entitled City of Philadelphia Tax and Regulatory Status and Clearance Statement which is attached to this RFP as *Appendix C*.

If the Applicant is not in compliance with the City's tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, Applicants will not be eligible for award of the contract contemplated by this RFP.

The selected Applicant will also be required to assist the City in obtaining the above information from its proposed subcontractors (if any). If a proposed subcontractor is not in compliance with City Codes and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to participate in the contract contemplated by this RFP and the selected Applicant may find it necessary to replace the non-compliant subcontractor with a compliant subcontractor. Applicants are advised to take these City policies into consideration when entering into their contractual relationships with proposed subcontractors.

If an Applicant or a proposed subcontractor is not currently in compliance with the City's tax and regulatory codes, please contact the Revenue Department to make arrangements to come into compliance at 215-686-6600 or [revenue@phila.gov](mailto:revenue@phila.gov).

Applicants need not have a City of Philadelphia Business Income and Receipts Tax Account Number (formerly Business Privilege Tax Account Number) and Commercial Activity License Number (formerly Business Privilege License Number) to respond to this RFP, but will, in most circumstances, be required to obtain one or both if selected for award of the contract contemplated by the RFP.<sup>1</sup> Applications for a Business Income and Receipts Tax Account Number or a Commercial Activity License<sup>2</sup> may be made online by visiting the City of Philadelphia Business Services Portal at <http://business.phila.gov/Pages/Home.aspx> and clicking on "Register Now." If you have specific questions, call the Department of Revenue at 215-686-6600 for questions related

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<sup>1</sup> Applicants that have a Business Privilege Tax Number should use that number, as it is automatically their Commercial Activity License Number, and need not apply for a new Commercial Activity License Number. Similarly, Applicants with a Business Privilege Tax Account Number should use that number as their Business Income and Receipts Tax Account Number.

<sup>2</sup> Commercial Activity Licenses are not typically required for non-profit organizations; however, Business Income and Receipts Tax Account Numbers typically are required.

to City of Philadelphia Business Income and Receipts Tax Account Number or the Department of Licenses and Inspections at 215-686-2490 for questions related to the Commercial Activity License.

**D. Compliance with Philadelphia 21st Century Minimum Wage and Benefits Ordinance**

Applicants are advised that any contract awarded pursuant to this RFP will require compliance with Chapter 17-1300 of the Philadelphia Code (“Philadelphia 21st Century Minimum Wage and Benefits Standard Ordinance”) with respect to employees of Applicant whose work arises directly out of the contract awarded pursuant to this RFP, provided that Applicant employs more than five employees. Any subcontract at any tier to perform services under the contract awarded pursuant to this RFP is a "Service Contract", and the subcontractor is a "Service Contractor", as those terms are defined in Chapter 17-1300. Applicants are encouraged to review Chapter 17-1300, which is accessible at <http://www.amlegal.com/library/pa/philadelphia.shtml>. If any such Service Contractor (i.e. subcontractors at any tier providing services) is also an “Employer,” as that term is defined in Section 17-1302 (more than five employees), and is among the Employers listed in Section 17-1303 of the Code, then it is subject to the minimum wage and benefits provisions set forth in Chapter 17-1300 unless it is granted a waiver or partial waiver under Section 17-1304. Absent a waiver, these minimum wage and benefits provisions, which include a minimum hourly wage that is adjusted annually based on the CPI (\$11.94/hour during 2016), health care and sick leave benefits, are mandatory and must be provided to Applicant’s employees, and the employees of any subcontractor at any tier, who perform services that arise directly out of the City contract resulting from this RFP. In addition to the enforcement provisions contained in Chapter 17-1300, the successful Applicant’s failure or the failure of any subcontractor at any tier to comply (absent an approved waiver) with the provisions of Chapter 17-1300, or any discrimination or retaliation by the successful Applicant or Applicant’s subcontractors at any tier against any of their employees on account of having claimed a violation of Chapter 17-1300, shall be a material breach of any contract resulting from this RFP. By submitting a proposal in response to this RFP, Applicants acknowledge that they understand, and will comply with, the requirements of Chapter 17-1300, and will require the compliance of their subcontractors at any tier, if awarded a contract pursuant to this RFP. Applicants further acknowledge that they will notify any subcontractors at any tier proposed to perform services related to this RFP of the requirements of Chapter 17-1300.

Applicants further acknowledge that they will notify any subcontractors at any tier proposed to perform services related to this RFP of the requirements of Chapter 17-1300.

**E. Local Business Entity or Local Impact Certification**

Pursuant to Mayoral Executive Order No. 04 -12, Aviation will, in the selection of the successful Applicant, consider whether that Applicant has certified that either (1) Applicant meets the criteria stated in Section 17-109(3)(b) of the Philadelphia Code to qualify as a Local Business Entity or (2) in the performance of the resulting contract, Applicant will employ City residents, or perform the work in the City. Any Applicant who wishes to demonstrate its eligibility for this consideration shall do so by completing, executing and attaching to its application a completed Local Business Entity or Local Impact Certification, the form of which is attached to this RFP as *Appendix E*. The Applicant shall then also include in a separate section of the application, labeled “Local Business Entity or Local Impact Certification,” a statement that the Applicant believes it has met the Local

Business Entity or Local Impact criteria “as set forth in the attached Local Business Entity or Local Impact Certification.” Aviation shall deem it a positive factor where the Applicant has, in the City’s sole discretion, met the Local Business Entity or Local Impact criteria.

## **F. Selection Process**

This RFP is not a competitive bid subject to the requirement of Section 8-200 of the Philadelphia Home Rule Charter that award be made to the lowest responsible bidder. Cost to the City is a material factor, but it is not the sole, or necessarily the determining factor, in proposal evaluation. The City may, at its sole discretion, award a contract resulting from this RFP to a person or entity other than the responsible Applicant submitting the lowest price. If the City chooses to award a contract, that contract will be awarded to the Applicant whose proposal the City determines, in its sole discretion, is the most advantageous to the City and in the City’s best interest.

The City will base its selection on criteria that include, but are not limited to:

1. Superior ability or capacity to meet particular requirements of contract and needs of Aviation and those it serves;
2. Superior prior experience of Applicant and staff;
3. Superior quality, efficiency and fitness of proposed solution for Aviation;
4. Superior skill and reputation, including timeliness and demonstrable results;
5. Special benefit to continuing services of incumbent, such as operational difficulties with transition or needs of population being served;
6. Benefit of promoting long-term competitive development and allocation of experience to new or disadvantaged business enterprises;
7. Amount of the proposed Concession Fee defined in *Section II.F*;
8. Administrative and operational efficiency, requiring less City oversight and administration;
9. Anticipated long-term cost effectiveness;
10. Meets prequalification requirements;
11. Applicant’s certification of its Local Business Entity/Local Impact status pursuant to Executive Order 04-12; and
12. Applicant’s certification of Diversity Compliance and the level and quality of ACDBE participation proposed by the Applicant.

#### IV. Proposal Administration

##### A. Procurement Schedule

RFP Posted	April 29, 2016
Applicant Questions Due	May 13, 2016 by 5PM
Proposals Due	June 9, 2016 by 5PM
Applicant Selection	July, 2016
Commencement of Work	August 1, 2016

**NOTE:** Revisions to the schedule are posted via Addendum with the original RFP documents on the Additional Opportunities website (“Additional Opportunities”): [www.phila.gov/contracts](http://www.phila.gov/contracts), choose Additional Opportunities.

The above dates are estimates only and the City reserves the right, in its sole discretion, to change this schedule. Notice of changes to the due date for Applicant questions and the date for proposal submission will be posted on the City’s website at [www.phila.gov/contracts](http://www.phila.gov/contracts) (click on Additional Opportunities). The other dates/times listed may be changed without notice to prospective Applicants.

##### B. Questions Relating to the RFP

All questions concerning this RFP must be submitted in writing via email to:

Alec Gever  
[Alec.Gever@phl.org](mailto:Alec.Gever@phl.org)

no later than 5 PM on May 13, 2016, and may not be considered if not received by then. The City will respond to questions it considers appropriate to the RFP and of interest to all Applicants, but reserves the right, in its discretion, not to respond to any question. Responses will be posted on the City’s website at [www.phila.gov/contracts](http://www.phila.gov/contracts) (click on Additional Opportunities). Responses posted on the City’s website become part of the RFP upon posting. The City reserves the right, in its discretion, to revise responses to questions after posting, by posting the modified response. No

oral response to any Applicant question by any City employee or agent shall be binding on the City or in any way considered to be a commitment by the City.

**C. Interviews, Presentations**

During the evaluation of proposals, interviews or oral presentations may be required from one or more Applicants. The City will advise Applicants as to the time and place for such oral presentations. The Applicant shall be prepared to discuss all aspects of the proposal in detail. All costs of interviews and presentations, including travel, are the responsibility of the Applicant.

**D. Term of Contract**

It is anticipated that the initial term of the Contract shall commence on August 1, 2016 (the “Initial Term”) and, unless sooner terminated by the City pursuant to the terms of the Contract, shall expire up to twelve months thereafter, on July 31, 2017. The City may, at its sole option, amend the Contract to add up to three (3) additional successive one-year terms (“Additional Terms”). Except as may be stated otherwise in such amendment, the terms and conditions of this Contract shall apply throughout each Additional Term.

## **V. General Rules Governing RFPs/Proposals; Reservation of Rights and Confidentiality**

### **A. Revisions to RFP**

The City reserves the right to change, modify or revise the RFP at any time. Any revision to this RFP will be posted on Additional Opportunities with the original Opportunity Details. It is the Applicant's responsibility to check the website frequently to determine whether additional information has been released or requested.

### **B. City Employee Conflict Provision**

City of Philadelphia employees and officials are prohibited from submitting a proposal in response to this RFP. No proposal will be considered in which a City employee or official has a direct or indirect interest.

### **C. Proposal Binding**

By submitting its proposal, each Applicant agrees that it will be bound by the terms of its proposal for a minimum of 180 calendar days from the application deadline for this RFP. An Applicant's refusal to enter into a contract which reflects the terms and conditions of this RFP or the Applicant's proposal may, in the City's sole discretion, result in rejection of Applicant's proposal.

### **D. Performance Bond**

The successful Applicant will be required to provide the City with a performance bond for the Agreement term as security for the faithful performance of and compliance with all the terms and conditions of the Agreement. Failure to secure such bonding, if required, for the term may be considered a breach of the contract and will entitle the City to all rights and remedies under the law. In lieu of the performance bond, the City may elect, in its sole discretion, to accept a "Letter of Credit" as security for the faithful performance of and compliance with all the terms and conditions of the Agreement.

### **E. Contract Preparation Fee**

Pursuant to Chapter 17-700 of the Philadelphia Code, the successful Applicant must generally pay a contract preparation fee. Regulations promulgated by the City Solicitor currently establish the following schedule of fees for preparation of the initial contract and subsequent amendments,

based upon the amounts involved and whether the successful Applicant is a for-profit or nonprofit entity:

Amount of Contract or Amendment	For-Profit Fees		Non-Profit Fees	
	Contract	Amendment	Contract	Amendment
\$0-\$30,000	\$50	\$50	\$50	\$50
\$30,001-\$100,000	\$200	\$170	\$100	\$85
\$100,001-\$500,000	\$500	\$340	\$200	\$170
\$500,001-\$1,000,000	\$900	\$520	\$300	\$260
Over \$1,000,000	\$1,500	\$1,000	\$500	\$500

In its discretion, the Law Department may grant a full or partial waiver of any of the above fees in exceptional cases for good cause shown, such as violation of a grant covenant. Governmental entities are exempt from the fees. The Law Department reserves the right to collect up to twice the stated fee if extensive negotiation is required to reach a final contract with the successful Applicant.

**F. Reservation of Rights**

By submitting its response to this notice of contract opportunity, the Applicant accepts and agrees to this Reservation of Rights, including but not limited to full cooperation with any request or investigation made pursuant to this Reservation of Rights. The term “notice of contract opportunity,” as used herein, means this RFP and includes all information posted on Additional Opportunities in relation to this “New Contract Opportunity”, including in addition to this RFP, any other document linked to this notice of contract opportunity.

1. **This Notice of Contract Opportunity:** The City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to this notice of contract opportunity:
  - a. to reject any and all proposals and to reissue this notice of contract opportunity at any time prior to execution of a final contract;
  - b. to issue a new notice of contract opportunity with terms and conditions substantially different from those set forth in this or a previous notice of contract opportunity;
  - c. to issue a new notice of contract opportunity with terms and conditions that are the same or similar as those set forth in this or a previous notice of contract opportunity in

order to obtain additional proposals or for any other reason the City determines to be in the City's best interest;

- d. to extend this notice of contract opportunity in order to allow for time to obtain additional proposals prior to the notice of contract opportunity application deadline or for any other reason the City determines to be in the City's best interest;
  - e. to supplement, amend, substitute or otherwise modify this notice of contract opportunity at any time prior to issuing a notice of intent to contract to one or more Applicants;
  - f. to cancel this notice of contract opportunity at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued, with or without issuing, in the City's sole discretion, a new notice of contract opportunity for the same or similar services; and
  - g. to do any of the foregoing without notice to Applicants or others, except such notice as the City, in its sole discretion, elects to post on Additional Opportunities.
2. **Proposal Selection and Contract Negotiation:** Selection of an Applicant by City does not mean a concession agreement will be successfully negotiated and executed between the City and the selected Applicant. In addition, the City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to proposal selection:
- a. to reject any proposal if the City, in its sole discretion, determines the proposal is incomplete, deviates from or is not responsive to the requirements of this notice of contract opportunity, does not comply with applicable law, is conditioned in any way, or contains ambiguities, alterations or items of work not called for by this notice of contract opportunity, or if the City determines it is otherwise in the best interest of the City to reject the proposal;
  - b. to reject any proposal if, in the City's sole judgment, the Applicant has been delinquent or unfaithful in the performance of any contract with the City or with others; is delinquent, and has not made arrangements satisfactory to the City, with respect to the payment of City taxes or taxes collected by the City on behalf of the School District of Philadelphia, or other indebtedness owed to the City; is not in compliance with City regulatory codes applicable to Applicant; is financially or technically incapable; or is otherwise not a responsible Applicant;
  - c. to waive any defect or deficiency in any proposal, including, without limitation, those identified in subsections a. and b. preceding, if, in the City's sole judgment, the defect or deficiency is not material to the proposal;
  - d. to require, permit or reject, in the City's sole discretion, amendments (including, without limitation, information omitted), modifications, clarifying information (including without limitation additional information required to evaluate any Proposal and/or to approve ACDBE participation contained therein), and/or corrections to their

proposals by some or all of the Applicants at any time following proposal submission and before the execution of a final contract;

- e. to issue a notice of intent to contract and/or execute a contract for any or all of the items in any proposal, in whole or in part, as the City, in its sole discretion, determines to be in the City's best interest;
- f. to enter into negotiations with any one or more Applicants regarding price, scope of services, or any other term of their proposals, and such other contractual terms as the City may require, at any time prior to execution of a final contract, whether or not a notice of intent to contract has been issued to any Applicant and without reissuing this notice of contract opportunity;
- g. to enter into simultaneous, competitive negotiations with multiple Applicants or to negotiate with individual Applicants, either together or in sequence, and to permit or require, as a result of negotiations, the expansion or reduction of the scope of services or changes in any other terms of the submitted proposals, without informing other Applicants of the changes or affording them the opportunity to revise their proposals in light thereof, unless the City, in its sole discretion, determines that doing so is in the City's best interest;
- h. to discontinue negotiations with any Applicant at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued to the Applicant, and to enter into negotiations with any other Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;
- i. to rescind, at any time prior to the execution of a final contract, any notice of intent to contract issued to an Applicant, and to issue or not issue a notice of intent to contract to the same or a different Applicant and enter into negotiations with that Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;
- j. to elect not to enter into any contract with any Applicant, whether or not a notice of Intent to Contract has been issued and with or without the reissuing this notice of contract opportunity, if the City determines that it is in the City's best interest to do so;
- k. to require any one or more Applicants to make one or more presentations to the City at the City's offices or other location as determined by the City, at the Applicant's sole

cost and expense, addressing the Applicant's proposal and its ability to achieve the objectives of this notice of contract opportunity;

- l. to conduct onsite investigations of the facilities of any one or more Applicants (or the facilities where the Applicant performs its services);
- m. to inspect and otherwise investigate projects performed by the Applicant, whether or not referenced in the proposal, with or without consent of or notice to the Applicant;
- n. to conduct such investigations with respect to the financial, technical, and other qualifications of each Applicant as the City, in its sole discretion, deems necessary or appropriate; and,
- o. to do any of the foregoing without notice to Applicants or others, except such notice as the City, in its sole discretion, elects to post on Additional Opportunities.

**3. Miscellaneous:**

- a. Interpretation; Order of Precedence. In the event of conflict, inconsistency or variance between the terms of this Reservation of Rights and any term, condition or provision contained in any notice of contract opportunity, the terms of this Reservation of Rights shall govern.
- b. Headings. The headings used in this Reservation of Rights do not in any way define, limit, describe or amplify the provisions of this Reservation of Rights or the scope or intent of the provisions, and are not part of this Reservation of Rights.

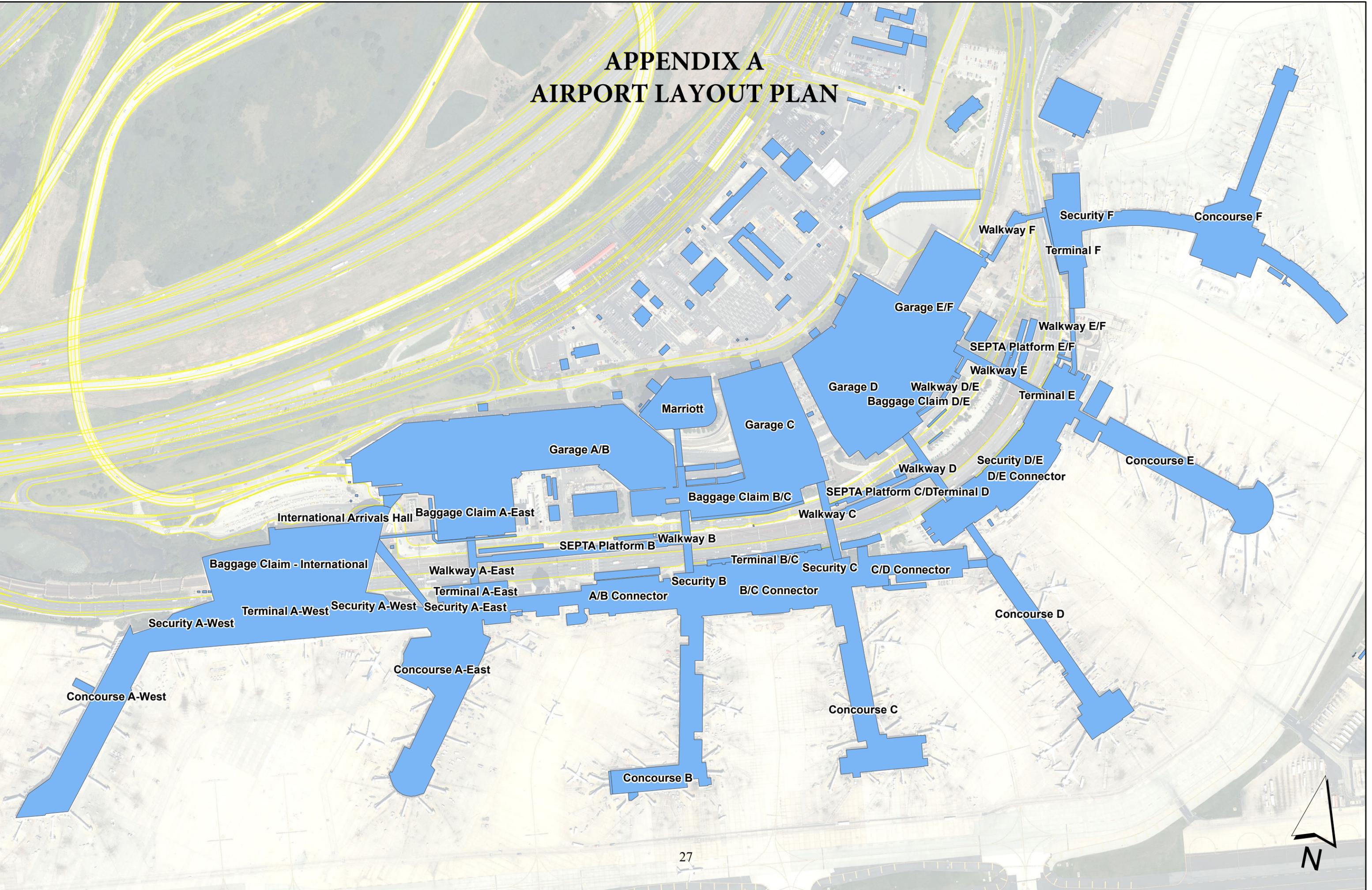
**G. Confidentiality and Public Disclosure**

The successful Applicant shall treat all information obtained from the City which is not generally available to the public as confidential and/or proprietary to the City. The successful Applicant shall exercise all reasonable precautions to prevent any information derived from such sources from being disclosed to any other person. The successful Applicant agrees to indemnify and hold harmless the City, its officials and employees, from and against all liability, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from any use or disclosure of such confidential and/or proprietary information by the successful Applicant or any person acquiring such information, directly or indirectly, from the successful Applicant.

By submission of a proposal, Applicants acknowledge and agree that the City, as a municipal corporation, is subject to federal, state and local public disclosure laws and, as such, is legally obligated to disclose public documents, including proposals, to the extent required thereunder.

Without limiting the foregoing sentence, the City's legal obligations shall not be limited or expanded in any way by an Applicant's assertion of confidentiality and/or proprietary data.

# APPENDIX A AIRPORT LAYOUT PLAN



## **INSTRUCTIONS, FORMS AND CONTRACT PROVISIONS RELATING TO PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISES IN CITY AIRPORT CONCESSIONS CONTRACTS**

1. **Policy.** This invitation and Request for Proposal is issued under the Regulations of the U.S. Department of Transportation ("U.S. DOT"), 49 C.F.R. Parts 23 and 26, as amended. It is the policy of the City of Philadelphia and U.S. DOT that airport concession disadvantaged business enterprises ("ACDBE(s)"), as defined in 49 CFR Part 23, as amended, shall have a fair opportunity to participate in the performance of airport concessions contracts. This invitation and any concession agreement entered into as the result of this Request for Proposal shall be subject to the requirements of the City's ACDBE Program and the U.S. Department of Transportation's regulations, 49 CFR Part 23 and 26, which concern participation by airport concessionaire disadvantaged business enterprises (ACDBEs) in the concession activities of airports receiving Federal financial assistance from the Federal Aviation Administration, which funds were authorized and issued under Title 49 of the United States Code since 1988. All forms, information and documentation submitted are subject to the penalties of 18 U.S.C.S. 1001 relating to false statements and 18 Pa.CS.A 4904 relating to unsworn falsification to authorities.

2. **49 CFR Part 23 Nondiscrimination and Assurances.** This Request for Proposal and any concession agreement entered into as the result of this invitation is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. By submitting a Proposal in response to this invitation, the Applicant agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. If the City enters into a concession agreement with Applicant, Applicant agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

3. **ACDBE Participation.** There is no numeric ACDBE Goal established for this Request for Proposal ("RFP"), but Applicants are required to use good faith efforts to include ACDBE participation in this proposal. In addition to completing the Certification of Diversity Compliance, Applicants are required to submit the following with their proposal:

a. A complete Schedule For Participation demonstrating any ACDBE participation commitments that Applicant has achieved; or

b. A complete Request For Good Faith Efforts Review, demonstrating that Applicant has made good faith efforts to include ACDBEs in its proposal.

The Schedule For Participation or, when necessary, a Request For Good Faith Efforts Review, become part of the Applicant's proposal and each is an element of responsiveness to this Request for Proposal.

**The failure to submit either a Schedule For Participation or a Request For Good Faith Efforts Review shall result in rejection of the proposal.** The City reserves the right to permit the Applicant to submit a Request For Good Faith Efforts Review at any time prior to award of a contract in order to evaluate whether the Applicant made good faith efforts.

4. **Counting ACDBE Participation.** The Schedule For Participation (if any) must contain the name and address of each ACDBE, a detailed description of the work (including a supply effort) to be performed by each named ACDBE and the percentage and dollar amount of participation. An entity wishing to participate as a joint venture ACDBE shall, in addition to the Schedule For Participation, complete and submit all required joint venture information forms available at the Division of Aviation's Office of Business Diversity. The listing of an ACDBE on the Schedule For Participation or a Schedule For Partial Participation accompanying a Request For Good Faith Efforts Review, constitutes a representation by the Applicant that the ACDBE is certified under the Pennsylvania Uniform Certification Program (PaUCP), as indicated below, and capable of completing the subcontract with its own work force and that the Applicant has made a binding commitment, in writing, with such firm prior to submission of the proposal. A copy of the binding commitment must be submitted with the Proposal. The written commitment must describe the work to be formed by the ACDBE, which must be a commercially useful function as required by 49 CFR Parts 23 and 26. Such a listing is also a representation that if the Applicant is successful in entering into a concession

agreement with the City, the successful Applicant will subcontract with the listed ACDBE(s) for the work described and dollar/percentage amount(s) set forth in the proposal submission and produce a copy of the executed subcontract within thirty (30) days of the execution of a concession agreement between City and the Applicant; or submit a request for Good Faith Efforts Review, if the Applicant is unable to execute a subcontract with the ACDBE.

a. Any ACDBE listed on the Schedule For Participation or the Schedule For Partial Participation accompanying a Request For Good Efforts Review **must be certified by the PaUCP before the time of proposal submission**. Applicant's may list on the Schedule For Participation **only** firms that are currently certified as an ACDBE for the work described in their written commitment. The PaUCP maintains a directory of certified ACDBEs classified according to NAIC codes. This Directory is accessible online at [www.paucp.com](http://www.paucp.com). The Applicant shall not receive credit towards ACDBE participation or good faith efforts by using other certification directories (e.g., OEO Directory of Certified Firms, Pennsylvania Department of General Services Small Diverse Business Directory).

b. Pursuant to 49 CFR Part 23.55, if a firm is determined to be an eligible ACDBE, the dollar value of the contract awarded to the ACDBE is counted toward ACDBE participation as follows:

i. **Commercially Useful Function:** Only expenditures to the ACDBE that relate to a commercially useful function performed by the ACDBE under the ACDBE's contract with the Applicant are counted toward ACDBE participation. An ACDBE is considered to perform a commercially useful function in accordance with 49 CFR Part 23.55 when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved.

ii. **Joint Ventures:** Only that portion of the total dollar value of a contract with a joint venture equal to the percentage of ACDBE ownership and control in the joint venture is counted toward ACDBE participation. The ACDBE joint venture partner must be responsible for a clearly defined portion of the work and must share in the risks and profits of the joint venture commensurate with its ownership interest in the joint venture as required by 49 CFR Part 23 and the FAA's Joint Venture Guidance (July 2008).

iii. **Management Contract:** The total dollar value an ACDBE earns under a management contract may be counted toward ACDBE participation.

iv. **Subconcessionaire or Subcontractor:** When an ACDBE performs under a subconcessionaire agreement or a subcontract with a non-ACDBE, only that portion of the monies earned by the ACDBE under its subagreement may be counted toward ACDBE participation.

v. **Bona Fide Services:** The entire amount of fees or commissions charged by an ACDBE for Bona Fide services may be counted toward ACDBE participation, as long as the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. Such services may include, but are not limited to, professional, technical, consultant, legal, security systems, advertising, building cleaning and maintenance, computer programming, or managerial.

vi. **Goods:**

(1) **Manufacturers and Regular Dealers:** One hundred percent (100%) of the expenditures for goods required under the contract and obtained from an ACDBE manufacturer, as defined in 49 CFR 26.55(e)(1)(ii), or purchased or leased from an ACDBE regular dealer, as defined in 49 CFR 26.55(e)(2)(ii) may be counted toward ACDBE participation.

(2) **Other goods suppliers:** For an ACDBE that is neither a manufacturer or a regular dealer, count toward ACDBE participation the entire amount of fees or commissions for assistance in the procurement of goods for the concession and the entire amount of fees or transportation charges for the delivery of goods to the concession, as long as such fees, commissions or charges are reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the goods themselves.

c. **Build-Out Costs Are Not Counted:** Pursuant to 49 CFR 23.55 (k), costs incurred in connection with the renovation, repair, or construction of a concession facility (sometimes referred to as the “build-out”) are not counted toward ACDBE participation.

**5. Good Faith Efforts Review and Appeal.**

a. If the Applicant does not make any ACDBE participation commitments, it must file a Request For Good Faith Efforts Review as indicated above, documenting its good faith efforts to include ACDBE participation commitments in the proposal. Good faith efforts are those efforts undertaken by the Applicant that, by their scope, intensity and appropriateness, can reasonably be expected to achieve ACDBE participation. Factors to be considered shall include, but not be limited to, soliciting interest of ACDBEs at pre-proposal meetings; negotiating in good faith with interested ACDBEs; providing interested ACDBEs with adequate information about the plans, specifications, and requirements of the contract in an expeditious manner; and, selecting portions of work or material needs that are consistent with the available ACDBE subcontractors and suppliers.

b. If the City determines that the Applicant failed to make good faith efforts, the Applicant will be notified and may file a written appeal for administrative reconsideration to the City within forty-eight (48) hours of the date of notification; Applicant is not permitted to submit new or additional documentation of good faith efforts in connection with its appeal. Reconsideration will be made by a City official who did not participate in the original determination that Applicant failed to make good faith efforts. The result of the reconsideration process is final and is not administratively appealable to the U.S. Department of Transportation.

**6. Post Award Obligation.** All contractors and subcontractors are hereby advised that their compliance with the requirements for participation by ACDBEs is material to the contract. Failure to carry out the requirements herein constitutes a substantial breach of contract and, after notification to the U.S. DOT, may result in termination of the contract, suspension, being barred from proposing on and/or participating in City and/or U.S. DOT funded contracts for up to three (3) years, and/or any other remedy available in law or equity.

a. The successful Applicant is required during the term of the agreement to make good faith efforts to replace any ACDBE subcontractor that is unable to perform successfully, with another PaUCP certified ACDBE. All such substitutions require the prior written approval of the City. Similarly, in the event the successful Applicant's contract is increased by change order (sometimes referred to as a modification) and/or amendment, the successful Applicant is required to make good faith efforts to include ACDBE participation on such change order or in such amendment.

b. The successful Applicant is required to make prompt payment to each subcontractor for satisfactory performance of its contract. Any delay or postponement of payment may occur only for good cause following written approval of the Division of Aviation. This provision applies to both ACDBE and non-ACDBE subcontractors. In the event that successful Applicant is found to be in noncompliance with this directive, the City may exercise appropriate legal remedies which may include suspension and debarment of the Applicant. Any issue or dispute, which may affect the prompt payment of subcontractors, should be brought to the attention of the Airport contract manager, as well as to the attention of the Director of the Division of Aviation's Office of Business Diversity, in situations involving ACDBE subcontractors and before a state of noncompliance under one or any combination of the following: 49 CFR Part 23; the City's ACDBE Program, and/or the provisions of the concession agreement.

**7. Post Award Compliance Monitoring.** The City reserves the right to conduct post-award compliance reviews to ensure that contractors are in compliance with 49 CFR Part 23 and 26, the City's ACDBE Program and the requirements set forth in the concession agreement for ACDBE participation. The successful Applicant agrees to cooperate with the City in its compliance monitoring efforts and to submit,

within the time limits prescribed by the City, all documentation that may be requested by the City, including, but not limited to, copies of subcontracts with the ACDBEs listed in the proposal, purchase orders, monthly and/or quarterly ACDBE reports or other ACDBE reports required under the concession agreement, canceled checks, etc. Unreasonable failure or refusal to furnish information or to cooperate in any compliance review shall constitute a substantial breach of the concession agreement.

**CERTIFICATION OF DIVERSITY COMPLIANCE**

Applicant Name: \_\_\_\_\_

I certify that the Applicant named above understands and agrees that any concession agreement entered into as the result of this invitation is subject to the requirements of the U.S. Department of Transportation’s regulations, 49 CFR Parts 23 and 26, and the PHL ACDBE Program.

I certify that the Applicant understands and agrees that in the performance of any concession agreement entered into as the result of this invitation, which includes participation by PaUCP certified ACDBEs, Applicant shall comply with 49 CFR Parts 23 and 26, and the PHL ACDBE Program, in addition to the ACDBE participation provisions set forth in any concession agreement which results from this invitation.

I certify that the Applicant agrees and understands that before any concession agreement is entered into by Applicant and the City, if the Applicant intends to provide diversity participation through a joint venture, the joint venture (and its contract with Applicant if it is a separate entity) is subject to approval by the City in accordance with 49 CFR Part 23, the FAA’s Joint Venture Guidance (July 2008) and the PHL ACDBE Program, including without limitation the City’s disclosure requirements for joint venture entities.

I certify that the Applicant agrees and understands that it will not discriminate against any individual because of the individual’s race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or any other agreement covered by 49 CFR Part 23. In addition, the Applicant agrees and understands that it must include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters with subcontractors or other businesses and cause those businesses to similarly include the statements in further agreements.

I certify that I have the authority to execute this form on behalf of the above named Applicant.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

**SCHEDULE FOR PARTICIPATION BY  
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBEs)**

Name of Applicant \_\_\_\_\_

ACDBE	Detailed Description of Work or Supply Effort or Joint Venture responsibilities	ACDBE Participation						
		Dollar Amount \$ (or ownership % for joint ventures)	Type of Contract					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 100%;">Name</td></tr> <tr><td style="width: 100%;">Address</td></tr> <tr><td style="width: 100%;"> </td></tr> <tr> <td style="width: 70%;">Contact Person</td> <td style="width: 30%;">Phone</td> </tr> </table>	Name	Address		Contact Person	Phone			
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Name								
Address								
Contact Person	Phone							

**PLEASE NOTE:**

1. If the Applicant is an ACDBE, it is still required to complete this form and must describe, in detail, the work that it will perform, with its own workforce and the dollar amount of the fees, charges or commissions for the work or goods (if a manufacturer or regular dealer) and the type of contract, or if the Applicant is a joint venture, it must provide a description of joint venture responsibilities performed by the ACDBE and the percentage of joint venture ownership held by the ACDBE.
2. A binding commitment must have been achieved with the ACDBE for the detailed work and dollar amount of participation as reflected by the ACDBE's quotation listed on this Schedule for Participation.
3. ACDBEs listed above must be certified by the PaUCP prior to proposal opening in order to count towards ACDBE participation.

**REQUEST FOR GOOD FAITH EFFORTS REVIEW**

Name of Applicant: \_\_\_\_\_

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

I, \_\_\_\_\_, have not been able to achieve participation from any Airport Concession Disadvantaged Business Enterprises (ACDBEs). I represent, under penalty of law and as evidenced by the attached documentation, that I have made good faith efforts prior to proposal opening to achieve ACDBE participation in accordance with the criteria set forth in 49 C.F.R. Section 26.53, but have been unable to achieve such participation for the following reasons\*:

\*You may attach supplemental pages and documentation if necessary.

**REQUEST FOR GOOD FAITH EFFORTS REVIEW  
SCHEDULE FOR Partial PARTICIPATION  
BY  
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES (ACDBE)**

Name of Applicant \_\_\_\_\_

ACDBE	Detailed Description of Work or Supply Effort or Joint Venture responsibilities	ACDBE Participation						
		Dollar Amount \$ (or ownership % for joint ventures)	Type of <u>Contract</u>					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 100%;">Name</td></tr> <tr><td style="width: 100%;">Address</td></tr> <tr><td style="width: 100%;"> </td></tr> <tr> <td style="width: 70%;">Contact Person</td> <td style="width: 30%;">Phone</td> </tr> </table>	Name	Address		Contact Person	Phone			
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Name								
Address								
Contact Person	Phone							

**PLEASE NOTE:**

1. If the Applicant is an ACDBE, it is still required to complete this form and must describe, in detail, the work that it will perform, with its own workforce and the dollar amount of the fees, charges or commissions for the work or goods (if a manufacturer or regular dealer) and the type of contract, or if the Applicant is a joint venture, it must provide a description of the joint venture responsibilities of the ACDBE and the percentage of joint venture ownership held by the ACDBE.
2. A binding commitment must have been achieved with the ACDBE for the detailed work and dollar amount of participation as reflected by the ACDBE's quotation (and the percentage of ownership for ACDBE joint venture owners) listed on this Schedule for Participation.
3. ACDBEs listed above must be certified by the PaUCP prior to proposal opening in order to count towards ACDBE participation.

Name of Applicant: \_\_\_\_\_

A. CONTRACTOR'S ADVERTISEMENTS FOR PARTICIPATION

Have you advertised in general circulation media, trade association publications and minority or female focused media concerning subcontracting opportunities in general? If so attach copies of all such advertisements published by you within the past six months. If copies are not available, explain why and state the text of the advertisement(s) and the publications where they were printed.

B. NOTIFICATION TO ACDBEs

(1) Did you contact in writing any certified Airport Concession Disadvantaged Business Enterprise(s) to solicit their participation in this contract? If so, attach dated copies of all such solicitations.

(2) Identify by name, address, date and telephone number each certified Airport Concession Disadvantaged Business Enterprise that you contacted orally, and name the person with whom you spoke. If your company maintains a telephone log, please attach relevant entries

Name of Applicant: \_\_\_\_\_

**C. AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISES UNAVAILABLE TO PARTICIPATE IN CONTRACT**

Of those Airport Concession Disadvantaged Business Enterprises listed in answer to Subpart B above, identify those which were interested in the contract but which were unavailable to work on this contract or were unable to prepare a quote. State the reasons for the unavailability of each ACDBE. The attached certification of unavailability form should be completed by the ACDBE and submitted for each unavailable firm whenever possible.

**D. INFORMATION AND ASSISTANCE PROVIDED TO AIRPORT CONCESSION DISADVANTAGED BUSINESSES**

Of those Airport Concession Disadvantaged Business Enterprises listed in answer to Subpart B above, identify those which you provided with plans, specifications and requirements of the contract. Detail all assistance you provide to interested certified ACDBEs and all efforts at negotiation to specific sub-proposals below.

I HEREBY CERTIFY THAT THE FOREGOING STATEMENTS ARE TRUE. THIS CERTIFICATION IS MADE SUBJECT TO THE PENALTIES SET FORTH IN 18 Pa.C.S.A. 4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES, AND 18 U.S.C.S. 1001, RELATING TO FALSE STATEMENTS. I UNDERSTAND THAT THIS REQUEST FOR GOOD FAITH EFFORTS REVIEW WILL BE CONSIDERED AND APPROVED OR DISAPPROVED SOLELY ON THE BASIS OF THE INFORMATION HEREIN PROVIDED.

\_\_\_\_\_  
Name (Signature)

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

Name of Applicant: \_\_\_\_\_

**CERTIFICATION OF UNAVAILABILITY  
OF AIRPORT CONCESSION DISADVANTAGED BUSINESS  
ENTERPRISES**

I,

\_\_\_\_\_ do hereby certify that I am a certified Airport Concession Disadvantaged Enterprise (“ACDBE”) under the PaUCP and I was offered an opportunity to participate in the above referenced proposal

for \_\_\_\_\_  
(Describe Work or Supply Effort Solicited)

by \_\_\_\_\_  
(Name of Prime Applicant’s Representative Making Solicitation)

on \_\_\_\_\_  
(Give Date of Solicitation)

but was unavailable to participate/unable to prepare a quote (strike inappropriate term) for the following reasons:

\_\_\_\_\_  
Name of ACDBE

\_\_\_\_\_  
Signature of Principal of ACDBE

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**APPENDIX C**

**CITY OF PHILADELPHIA TAX AND REGULATORY  
STATUS AND CLEARANCE STATEMENT  
FOR APPLICANTS**

**THIS IS A CONFIDENTIAL TAX DOCUMENT NOT FOR PUBLIC DISCLOSURE**

This form must be completed and returned with Applicant’s proposal in order for Applicant to be eligible for award of a contract with the City. Failure to return this form will disqualify Applicant’s proposal from further consideration by the contracting department. Please provide the information requested in the table, check the appropriate certification option and sign below:

Applicant Name	
Contact Name and Title	
Street Address	
City, State, Zip Code	
Phone Number	
Federal Employer Identification Number or Social Security Number:	
Philadelphia Business Income and Receipts Tax Account Number (f/k/a Business Privilege Tax) (if none, state “none”)*	
Commercial Activity License Number (f/k/a Business Privilege License) (if none, state “none”)*	

\_\_\_ I certify that the Applicant named above has all required licenses and permits and is current, or has made satisfactory arrangements with the City to become current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation, or has made satisfactory arrangements to cure any violation, or other regulatory provisions applicable to Applicant contained in The Philadelphia Code.

\_\_\_ I certify that the Applicant named above does not currently do business, or otherwise have an economic presence in Philadelphia. If Applicant is awarded a contract with the City, it promptly will take all steps necessary to bring it into compliance with the City’s tax and other regulatory requirements.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

\* You can apply for a City of Philadelphia Business Income and Receipts Tax Account Number or a Commercial Activity License on line after you have registered your business on the City’s Business Services website located at <http://business.phila.gov/Pages/Home.aspx>. Click on “Register” or “Register Now” to register your business.

## APPENDIX D: INSURANCE

### Insurance.

A. Unless otherwise approved by the City's Risk Management Division in writing, Applicant shall, at its sole cost and expense, procure and maintain in full force and effect, during the term and any extension or renewal thereof, the types and minimum limits of insurance specified under the Agreement, or such greater amounts as the City shall, from time to time require:

(1) Workers' Compensation and Employers' Liability.

- (a) Workers' Compensation: Statutory Limits
- (b) Employers' Liability: \$500,000 Each Accident - Bodily Injury by Accident; \$500,000 Each Employee - Bodily Injury by Disease; and \$500,000 Policy Limit - Bodily Injury by Disease.
- (c) Other states' insurance including Pennsylvania.

(2) General Liability Insurance.

- (a) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 advertising injury; \$2,000,000 general aggregate and \$2,000,000 aggregate for products and completed operations.
- (b) Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

(3) Automobile Liability Insurance.

- (a) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.
- (b) Coverage: Owned, non-owned, and hired vehicles.

(4) Umbrella Liability Insurance with limits totaling \$5,000,000 per occurrence when combined with insurance required under (1) Employer's Liability, (2) General Liability and (3) Automobile Liability above.

(5) Property Insurance.

All risk property insurance covering all all improvements, betterments, equipment, trade fixtures, merchandise, business personal property and any other property in Applicant's care, custody and control in the amount equal to the full replacement value of the property with no penalty for coinsurance, including coverage during any construction or renovation period

(6) Professional Liability Insurance.

(a) Limit of Liability: \$1,000,000 with a deductible not to exceed \$50,000.

(b) Coverage: Errors and omissions including liability assumed under Contract.

(c) Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences happening during the performance of the Services required under this Contract shall be maintained in full force and effect under the policy or "tail" coverage for a period of at least two (2) years after completion of the Services.

B. With respect to the insurance listed above the following shall apply:

- (1) With the exception of Professional Liability Insurance, all of the foregoing policies shall be provided on an "occurrence" basis and not a "claims-made" basis.
- (2) The City of Philadelphia, its officers, employee and agents, shall be named as additional insureds on all liability insurance policies required hereunder except Worker Compensation and Employers' Liability, Professional Liability and Property. The City of Philadelphia shall also be named as loss payee on the Property Insurance. All such policies shall include an endorsement stating that the coverage afforded these parties as additional insureds will be primary to any other coverage available to them.
- (3) Certificates of insurance evidencing the required coverages shall be submitted by Applicant to the Divison of Aviation (Philadelphia International Airport, Terminal "E", Philadelphia, Pennsylvania, 19153, Attention: Airport Properties Manager), and the City's Risk Manager (1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, Pennsylvania 19102-1595), at least ten (10) days before commencement of the Term or the Renewal Term. Applicant's failure to furnish certificates of insurance as required herein shall be considered as a default with a cure period of five (5) days after receipt of written notice thereof. Thereafter, and without further notice to Applicant, City may exercise any and all remedies set forth in this Agreement and at law or equity.

- (4) Applicant shall furnish copies of the original policies of all insurance required under the Agreement at any time within ten (10) days after written request by City.
- (5) All insurance policies shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, canceled or not-renewed. At least ten (10) days prior to the expiration of each policy . Applicant shall deliver to City a certificate of insurance or certificates of insurance evidencing a replacement policy to become effective immediately upon the termination of the previous policy.
- (6) From time to time during the Term of the Agreement and in any event not more frequently than every year, the City may adjust the amounts, types and deductibles of insurance required to reflect changed circumstances affecting the insurance requirement.
- (7) If Applicant fails to cause such insurance to be maintained, City shall not be limited in the proof of any damages which City may claim against Applicant or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but City shall also be entitled to recover as damages, expenses of suit and costs, including without limitation, reasonable cancellation fees, suffered or incurred during any period when Applicant shall have failed or neglected to provide insurance as required herein.
- (8) The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in the Agreement by Applicant to City or to limit Applicant's liability under this Agreement to the limits of the policies of insurance required to be maintained by Applicant hereunder.

C. Applicant shall not do or suffer to be done, any matter or thing whereby, or in consequence whereof, the policy or policies of insurance shall become voided or suspended, or which increase the risk or hazard of fire in or on the Airport unless, in the latter case only, such increased risk or hazard is adequately insured in City's sole discretion and the use creating such increased risk or hazard is permitted hereunder.

D. Applicant shall not permit separate insurance to be carried which relates to the Airport and is concurrent in form or contributing, in the event of loss, with that required to be maintained under this Agreement, or increase or permit to increase the amounts of any then existing insurance relating to the Airport by securing an additional policy or additional policies, without including the applicable parties required in this Section as insured parties or additional insured. Applicant immediately shall notify City whenever such separate insurance is obtained and deliver to the City certificates evidencing such policies and, upon request, certified copies or duplicate originals of the same (as required in this Section and in accordance with the procedures set forth herein).

**APPENDIX E**

**LOCAL BUSINESS ENTITY OR LOCAL IMPACT CERTIFICATION**

Instructions: Applicants who seek as a positive factor in the City’s consideration of their application that they meet the Local Business Entity or Local Impact criteria as provided in Mayoral Executive Order No. 04-12 should complete this Certification and return it with their application. Applicants providing this Certification should also include in a separate section of their application labeled “Local Business Entity or Local Impact Certification,” a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria “as set forth in the attached Local Business Entity or Local Impact Certification.” Check all appropriate certification options that are applicable to Applicant and sign below:

**Applicant Name:** \_\_\_\_\_

**Local Business Entity Certification**

\_\_\_ I certify that the Applicant named above is a Local Business Entity because Applicant complies with the following criteria set forth in Section 17-109(3)(b) of The Philadelphia Code:

I. During the preceding 12 months, Applicant has filed a Commercial Activity or Business Privilege tax return with the City establishing that Applicant conducted business within the City within the calendar year preceding the filing of the return; and

II. During the preceding 18 months, Applicant:

- A. Has continuously maintained a valid Commercial Activity or Business Privilege License and all other licenses and permits necessary to conduct business with the City;
- B. Has continuously occupied an office within the City, where business is conducted; and
- C. Satisfies at least one of the following requirements (*Check those applicable to Applicant*):

- \_\_\_ (1) More than half of Applicant’s full-time employees work in the City at least 60% of the time;
- \_\_\_ (2) More than 50 of Applicant’s full-time employees work in the City at least 60% of the time; or
- \_\_\_ (3) Applicant’s principal place of business is located in the City.

**Local Impact Certification**

\_\_\_ I certify that in the performance of a contract resulting from this RFP, the Applicant named above will employ City residents.

\_\_\_ I certify that in the performance of a contract resulting from this RFP, the Applicant will perform the work in the City.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

**APPENDIX F**  
**Passenger Traffic Analysis**  
**Calendar Years 2011 through 2015**

**Total Passengers**

<u>Calendar Year</u>	<u>Total Passenger Traffic</u>
2011	30,839,175
2012	30,252,816
2013	30,504,112
2014	30,740,242
2015	31,444,403

**Enplanements**

<u>Calendar Year</u>	<u>A-East</u>	<u>A-West</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>Total Enplanements</u>
2011	1,583,457	1,704,304	2,857,922	2,922,547	1,876,014	2,025,578	2,491,342	15,461,164
2012	1,510,859	1,712,436	2,711,163	3,033,719	1,925,761	1,585,847	2,675,527	15,155,312
2013	1,611,220	1,846,911	2,849,078	3,116,805	1,863,555	1,397,148	2,619,579	15,304,296
2014	1,631,639	1,907,489	2,947,917	3,103,834	1,821,182	1,287,546	2,709,209	15,408,816
2015	1,946,096	1,943,183	2,766,682	2,955,085	1,881,930	1,618,744	2,622,793	15,734,513
	8,283,271	9,114,323	14,132,762	15,131,990	9,368,442	7,914,863	13,118,450	77,064,101

**Deplanements**

<u>Calendar Year</u>	<u>A-East</u>	<u>A-West</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>Total Deplanements</u>
2011	1,622,719	1,693,259	2,831,585	2,859,436	1,908,736	2,013,780	2,448,496	15,378,011
2012	1,565,936	1,679,046	2,677,395	2,977,931	1,939,730	1,612,269	2,645,197	15,097,504
2013	1,623,248	1,823,838	2,819,716	3,072,696	1,877,419	1,412,693	2,570,206	15,199,816
2014	1,666,977	1,892,507	2,930,244	3,076,854	1,820,173	1,306,182	2,638,489	15,331,426
2015	2,002,328	2,012,291	2,740,169	2,957,667	1,835,129	1,567,458	2,594,848	15,709,890
	8,481,208	9,100,941	13,999,109	14,944,584	9,381,187	7,912,382	12,897,236	76,716,647

APPENDIX G

EXISTING NETWORK PROGRAMMING INVENTORY LOCATIONS

Concourse A-East

Gates:

AE4 (served by AE6)  
AE6  
AE8 (served by AE6)  
AE10 (served by AE6)  
AE11  
AE12 (served by AE6)

Concourse A-West

AW16  
AW17 (served by AW16)  
AW23  
AW24  
AW25 (served by AW23)  
AW26 (served by AW24)

Concourse B

Gates:

B1  
B3  
B5  
B6  
B7  
B9  
B10  
B11

Concourse C

Gates:

C18  
C19 (served by C21)  
C20  
C21  
C22  
C23  
C25  
C26  
C27 (served by C29)  
C29  
C30  
C31

Concourse D

Gates:

D6 (served by D8)  
D8  
D9  
D10  
D11 (served by D9)  
D12 (served by D16)  
D13 (served by D9)  
D14 (served by D16)  
D15 (served by D16)  
D16

**Concourse E**

Gates:

E1 (served by E3)  
E2 (served by E4)  
E3  
E4  
E5 (served by E7)  
E7  
E10  
E12 (served by E10)  
E13  
E14  
E17  
E18

**Concourse F**

Gates:

F18 (served by F21)  
F19 (served by F21)  
F20 (served by F21)  
F21  
F22 (served by F21)  
F23 (served by F21)  
F35 (served by F37)  
F37  
F39 (served by F37)

**Other Locations**

B/C Food Court A  
B/C Food Court B  
A West LaFamiglia (Food Counter)  
D4 (Seating Area)

## APPENDIX H

### Pictures of Existing Network Programming Mediums



APPENDIX I  
CURRENT PROVIDER AGREEMENT

#13-14001

**CNN AIRPORT NETWORK® PROGRAMMING SERVICE**

**CONCESSION AGREEMENT**

**BETWEEN**

**AC HOLDINGS, INC.**

**AND**

**THE CITY OF PHILADELPHIA**

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EXHIBIT E CNN AIRPORT NETWORK PROPOSAL

CNN AIRPORT NETWORK® PROGRAMMING SERVICE  
PHILADELPHIA INTERNATIONAL AIRPORT CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT ("Agreement"), dated as of this 13<sup>th</sup> day of September, 2012, effective May 1, 2012 (the "Effective Date"), by and between THE CITY OF PHILADELPHIA, a Pennsylvania municipal corporation acting by and through its DEPARTMENT OF COMMERCE, DIVISION OF AVIATION, with its principal office located at Terminal D, Philadelphia, Pennsylvania 19153 (the "City"), and AC Holdings, Inc., with its principal office located at One CNN Center, SE07, Atlanta, Georgia 30303 ("CNN Airport Network");

WITNESSETH:

WHEREAS, the Procurement Department issued a Request for Proposal on August 12, 2011 for the provision of network programming services at the terminal buildings and concourses and other agreed upon locations at the Philadelphia International Airport, Philadelphia, Pennsylvania (the "Airport"); and

WHEREAS, CNN Airport Network submitted the successful proposal (the "Proposal") attached hereto and made a part hereof as Exhibit E for the provision of such services, including the maintenance and installation of all necessary equipment; and

WHEREAS, CNN Airport Network desires to provide the Services; and

WHEREAS, the City desires CNN Airport Network to provide the Service in the Airport according to the terms set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual promises, representations, covenants and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. DEFINITIONS. The following words and phrases shall have the respective meanings ascribed to them below when used in this Agreement:

1.1 "Advertising Time" shall mean the approximate sixteen (16) minutes of advertising and promotional time included in the Service per available hour.

1.2 "Approved Installation Areas" shall mean areas of the Airport identified by CNN Airport Network and approved by the City for installation of the Service Equipment.

1.3 "City Encumbrances" shall mean any liens, claims, charges, encumbrances or security interests of any nature whatsoever arising by or through the City.

1.4 "City Revenue Share Payment" shall mean the amount determined by multiplying a fraction, the numerator of which shall be the measured viewing audience for the Service at the Airport during the prior quarter, and the denominator of which shall be the measured viewing audience for the Service at all domestic airports eligible to receive a portion of advertising revenue (the busiest airports are eligible based upon enplanement data and projected growth, both calculated by the FAA) therefrom during the same calendar quarter, by the Service Revenue Pool.

1.5 "CNN" shall mean Cable News Network, Inc.

1.6 "CNN Airport Network Encumbrances" shall mean any liens, claims, charges, encumbrances or security interests of any nature whatsoever arising by or through CNN Airport Network.

1.7 "Display Screens" shall mean that portion of the Exhibition Equipment that displays the video.

1.8 "Distribution Equipment" shall mean that portion of the Service Equipment installed by CNN Airport Network necessary to distribute the Service to various areas located throughout the Airport (i.e., cabling and conduit).

1.9 "Exhibition Equipment" shall mean the speakers and Display Screens and related components of the Service Equipment installed by CNN Airport Network necessary for actual viewing of the Service within Approved Installation Areas.

1.10 "Guaranteed Amount" shall mean the applicable quarterly amount specified in Section 10 of this Agreement.

1.11 "Insertion Equipment" shall be defined as that portion of the Service Equipment installed by CNN Airport Network necessary for the insertion of audio/video advertisements and/or promotional announcements into the Service on a local basis as permitted in this Agreement.

1.12 "Programming" shall mean the news, information and entertainment television programming material professionally produced and provided by CNN Airport Network or any entity controlled by, under common control with or controlling CNN Airport Network included in the Service.

1.13 "Quarterly Fee" shall mean the greater of the Guaranteed Amount or the City Revenue Share Payment payable on a quarterly basis during the Term.

1.14 "Reception Equipment" shall mean that portion of the Service Equipment installed by CNN Airport Network necessary to receive the Service.

1.15 "Service" shall mean the Programming and other services related to distribution of the Programming, but shall not include any Service Equipment.

1.16 "Service Equipment" shall mean all Reception, Distribution, Insertion and Exhibition Equipment installed and owned by CNN Airport Network at the Airport.

1.17 "Service Revenue" shall mean gross advertising revenue from the sale of national Advertising Time by CNN Airport Network to third parties in a given quarter, less the applicable advertising agency commission fees actually paid or payable by CNN Airport Network (not to exceed fifteen percent (15%)) and any monies refunded by CNN Airport Network to advertisers and/or agencies with respect to Third Party Units, as defined in Section 7.B. below ("Net Advertising Revenue").

1.18 "Service Revenue Pool" shall be calculated as follows: (a) 15% of the Service Revenue invoiced by CNN Airport Network for the preceding quarter until such time as CNN Airport Network has invoiced an aggregate amount of Service Revenue equal to \$15,000,000.00 for the calendar year in which the preceding quarter occurs; (b) 17.5% of the Service Revenue invoiced by CNN Airport Network for the preceding quarter after CNN Airport Network has invoiced an aggregate amount of Service Revenue in excess of \$15,000,000.00 but less than or equal to \$25,000,000.00 for the calendar year in which the preceding quarter occurs; (c) 22.5% of the Service Revenue invoiced by CNN Airport Network for the preceding quarter after CNN Airport Network has invoiced an aggregate amount of Service Revenue in excess of \$25,000,000.00 but less than or equal to \$30,000,000.00 for the calendar year in which the preceding quarter occurs; and (d) 32.5% of the Service Revenue invoiced by CNN Airport Network for the preceding quarter after CNN Airport Network has invoiced an aggregate amount of Service Revenue in excess of \$30,000,000.00 for the calendar year in which the preceding quarter occurs.

1.19 "Term" shall have the meaning set forth in Section 3.

1.20 "Trade Secrets" shall mean any data, information (financial or otherwise), formula, pattern, compilation, program, device, method, technique, drawing, plan, process, research results and name or list of actual or potential licensees, advertisers or suppliers, which is disclosed to CNN Airport Network or the City, as the case may be, by or on behalf of the other party hereto in connection with the relationship contemplated by this Agreement and which has a value to the other party and is not generally known by the other party's competitors. Trade Secrets include, but are not limited to, information relating to the financial affairs, products, services, customers, officers, directors, and employees of the other party.

## 2. REPRESENTATIONS; AUTHORIZATION.

A.           The City. The City represents and warrants to CNN Airport Network that it has all necessary power and authority and has taken all action necessary to enter into this

Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder. The City further represents and warrants to CNN Airport Network that the execution, delivery and performance of this Agreement and the consummation of any and all transactions contemplated by this Agreement and the fulfillment of and compliance with the terms and conditions of this Agreement do not and will not violate or conflict with, or constitute a breach of or default under, any existing contracts or commitments to which the City is a party or by which it may be bound.

B. CNN Airport Network. CNN Airport Network represents and warrants to the City that it has all necessary power and authority and has taken all action necessary to enter into this Agreement, to consummate the transactions contemplated hereby, and to perform its obligations hereunder. CNN Airport Network further represents and warrants to the City that the execution, delivery and performance of this Agreement and the consummation of any and all transactions contemplated by this Agreement and the fulfillment of and compliance with the terms and conditions of this Agreement do not and will not violate or conflict with, or constitute a breach of or default under, any existing contracts or commitments to which CNN Airport Network is a party or by which it may be bound.

3. TERM.

The term of this Agreement shall be for a period of one (1) year from the Effective Date (“the Term”) and may be renewed at the sole discretion of the City for three (3) one (1) year successive terms by notice of the City of its intent to renew at least sixty (60) days prior to the expiration of the then current term.

4. USE OF THE AIRPORT.

A. Grants and Approvals. The City hereby grants CNN Airport Network the non-exclusive right to provide the Service and, subject to the City’s prior approval over specific installation plans for new areas, the right to install, operate and maintain all Service Equipment during the Term of this Agreement. The exact locations of any and all new Service Equipment and other ancillary space requirements shall be selected by CNN Airport Network and approved by the City after review of CNN Airport Network’s drawings and plans showing its proposed manner of installation and placement of Service Equipment. In accordance with the foregoing, CNN Airport Network shall have the right to install the Service Equipment and deliver the Service to the Approved Installation Areas of the Airport listed on Exhibit "A" attached hereto and by reference made a part hereof during the Term of this Agreement. As indicated below, any expansion plans and the installation schedule applicable thereto shall be subject to the mutual agreement of the parties. As between the parties hereto, CNN Airport Network shall be responsible for obtaining the approval or consent of any third party lessee at the Airport, if necessary, for CNN Airport Network to install Service Equipment within the premises leased to such third party. Unless specifically approved by the City, CNN Airport Network shall not use the Approved Installation Areas for any purpose other than to provide the Service and to perform certain services and activities related thereto and expressly contemplated by this Agreement.

The parties hereto acknowledge that CNN Airport Network has already installed the majority of the Service Equipment necessary for its operations at the Airport under a prior agreement. In addition to its obligation to provide maintenance for such Service Equipment, CNN Airport Network further agrees to use commercially reasonable efforts to further expand installation of the Service at the Airport upon the reasonable request of the City during the Term as appropriate. To facilitate such further expansion, CNN Airport Network shall consult with the City from time to time in an effort to understand the City's expansion plans for the Airport, if any, and to gain access to detailed enplanement information that may be instrumental to a decision by CNN Airport Network as to whether it should further expand the Service to other areas. Nonetheless, it is understood and agreed that CNN Airport Network shall have no obligation whatsoever to incur any extraordinary installation costs, such as those associated with structural impediments, lengthy cable runs, remote installation sites and the like, and, thus, such proposed installations must be approached on a case by case basis. Without limiting the generality of the foregoing, it is expressly understood and agreed that CNN Airport Network shall have no obligation whatsoever to undertake installation in any areas with asbestos or to engage in any abatement activities related thereto. CNN Airport Network reserves the absolute right to reject any installation sites on the basis of low gate or other traffic in the exercise of its business judgment. CNN Airport Network agrees to be reasonable in selecting the Approved Installation Areas hereunder.

B. Exhibition Equipment Upgrade. Intentionally Left Blank.

C. Headend Room. CNN Airport Network will coordinate directly with the City regarding its continuing need for space in a secured room (the "CNN Airport Network Headend Room") at the Airport with sufficient space to accommodate the placement, installation and operation of its Reception Equipment used to receive the Service. The signal will be subsequently distributed from this point to the Approved Installation Areas located throughout the Airport via the Distribution Equipment. The City understands and agrees that CNN Airport Network shall have the right, 24 hours a day, to easily access the CNN Airport Network Headend Room as necessary to operate and maintain the Reception Equipment located therein. The City shall provide, at no charge to CNN Airport Network, a dedicated connection to the internet for remote access to the Insertion Equipment and other equipment located in a secured (headend) room at the Airport. The connection shall provide high speed data service with a minimum of 3.0 megabits per second with a static, public IP address.

D. Security and Other Rules and Regulations. CNN Airport Network's access to and use of the Airport will be conditioned upon compliance with all security rules and regulations instituted by the City and any other governing authority exercising jurisdiction over the Airport. In conducting its operations hereunder, CNN Airport Network agrees to comply with all applicable laws and regulations of the United States of America, the Commonwealth of Pennsylvania and the City of Philadelphia and lawful rules and regulations promulgated by authority of law, specifically including, but not limited to, all fire codes and security regulations.

5. INSTALLATION, MAINTENANCE AND OPERATION OF SERVICE EQUIPMENT.

A. Materials and Services. Except as otherwise specifically provided herein, CNN Airport Network shall be solely responsible for providing, installing, maintaining and operating, at its sole cost, all Service Equipment at the Airport, and shall provide all personnel necessary to perform these functions and address all customer complaints and inquiries, if any, during the Term. Any problems concerning the Service that comes to the attention of the City, such as any problems with the Service Equipment or customer inquiries or complaints, shall be directed to CNN Airport Network's designated local representative or communicated to CNN Airport Network through any other communication procedure established and agreed to by CNN Airport Network and the City.

B. Mode of Installation. CNN Airport Network agrees to cause its designated representatives to install such Service Equipment in a proper and workmanlike manner, and shall coordinate such installations with the City's designated representative with as little disruption as practicable to the normal operations of the Airport and any lessee of the space where the Service Equipment is being installed. CNN Airport Network further represents that none of the Service Equipment shall cause any interference with Airport tower communications or violate any regulation of the Federal Aviation Administration and agrees to immediately discontinue any such interference or violating operation.

C. Repair, Replace, Upgrade. During the Term, CNN Airport Network shall repair or replace any Service Equipment installed by it at the Airport that is damaged or otherwise not in first class condition or in need of repair or replacement, as soon as possible, subject to its ability to obtain any necessary approval from the City and/or third party tenant. In addition, CNN Airport Network reserves the right, subject to compliance with any required tenant approval requirements, and at any time during the Term of this Agreement, to replace and/or up-grade any and all Service Equipment installed in the Airport to maintain and/or improve the Service.

D. Modifications to Service Equipment. The City shall have no right unilaterally to modify or interfere with any Service Equipment or the location thereof in any way, except when the City deems it necessary to protect the public health and safety or in case of other emergency. Once the placement of the Service Equipment is approved by the City and installed, the City shall not tamper with, move, remove, relocate, use or otherwise interfere with any Service Equipment or the audio quality of the Service, except when the City deems it necessary to protect the public health and safety. Notwithstanding the foregoing, the City may request a modification of the Service Equipment or its location, and CNN Airport Network shall remove and/or relocate installations of Exhibition Equipment and restore the area in which such Exhibition Equipment was located to its prior condition, normal wear and tear excepted, as soon as practicable following written notification by the City that it has determined in good faith that such removal or relocation is necessary for priority Airport business. The foregoing is intended to provide flexibility over the Term with respect to specific installations.

E. Sound Levels. CNN Airport Network agrees that the maximum sound level of the audio portion of the Service within each area displaying the Service shall be acceptable to the City and the lessee or user of the space in which the Service Equipment is located, if applicable, and will not interfere with any public announcements made by the City or any air carrier within that area. Furthermore, CNN Airport Network shall routinely monitor its sound control devices responsible for automatically increasing or decreasing the volume of the audio portion of the Service, based upon the ambient noise level, to ensure that the calibration is appropriate and within acceptable ranges.

F. Property of CNN Airport Network. All Service Equipment installed or brought into the Airport by CNN Airport Network and related to the Service (including all Service Equipment previously installed by CNN Airport Network) shall be deemed to be personal property and shall not be deemed to be fixtures attached to real estate or part of the real estate and shall remain the sole property of CNN Airport Network and may include any identifying logo, trademark or other signage of CNN Airport Network or CNN.

G. Loss of Business Liability. The City shall not be liable to CNN Airport Network for any loss of business or damages sustained by CNN Airport Network as a result of any change in the operation or configuration of, or any change in any procedure governing the use of the Airport or any terminal therein.

H. Encumbrances. The City shall not permit any City Encumbrances to be placed upon the Service Equipment and if the City receives notice of the placement of any such City Encumbrances, it shall notify CNN Airport Network and shall take or cause to be taken all actions reasonably necessary to promptly clear and remove such City Encumbrances from the Service Equipment as soon as practicable.

Similarly, CNN Airport Network shall not permit CNN Airport Network Encumbrances to be placed upon any property owned or leased by the City and located at the Airport, and if CNN Airport Network receives notice of the placement of any such CNN Airport Network Encumbrances, it shall notify the party whose property is affected and shall take or cause to be taken all actions necessary to promptly clear and remove such CNN Airport Network Encumbrances from such property.

## 6. DELIVERY OF SERVICE.

CNN Airport Network shall deliver the Service to all completed installation areas of the Airport seven (7) days a week. The Service shall be delivered to the CNN Airport Network Headend Room for subsequent distribution via the Distribution Equipment to the Exhibition Equipment installed in selected Approved Installation Areas. CNN Airport Network's delivery of the Service shall not interfere in any way with any Airport operations or communications.

## 7. DESCRIPTION OF SERVICE.

A. Content of Programming. The Service shall be in the format of continuous audio and video programming packages (the "Packages"), each Package consisting of (i) approximately forty-four (44) minutes of news, information and entertainment television programming material professionally produced and provided by CNN Airport Network or any entity controlled by, under common control with or controlling CNN Airport Network (the "Programming") and (ii) approximately sixteen (16) minutes of advertising and promotional time (the "Advertising Time"), per hour. CNN Airport Network shall also have the ability to interrupt the Service to go "live" to any significant breaking news or special event.

As indicated above, the Programming will be produced by CNN Airport Network's affiliate, CNN, and CNN shall have absolute and complete discretion, editorial and otherwise, with respect to the selection, format, content, production, editing and updating of the Programming and the spots for Advertising Time included therein, and the arrangement of the segments and spots; provided, however that CNN Airport Network represents and warrants that the quality and format of the Service shall at all times during the Term meet the general news standards specifically applicable to CNN's *Headline News* service. It is expressly agreed, however, that any Programming related to any accident involving a commercial passenger airline shall only be included in the Programming without graphic video coverage of the accident site, unless the accident involves a national emergency or threat to security. CNN Airport Network hereby reserves the right to temporarily withdraw the Service, or any portion thereof, at any time as it deems necessary or advisable in the exercise of its sound business judgment, and any such temporary withdrawal, interruption, delay or interference shall not constitute or be deemed a breach of this Agreement; provided, however, that CNN Airport Network agrees to use its best efforts to restore the Service as soon as possible. CNN Airport Network shall be solely responsible for any liability associated with the Programming provided by it for the Service.

It is expressly agreed that all Programming, advertising and promotional material to be broadcast by CNN Airport Network hereunder shall be in accordance with the highest industry standards, truthful and not misleading and shall not be either (i) sexually explicit, or (ii) include graphic depictions of violence except to the extent generally shown on national news broadcasts.

B. Advertising Time. Subject to the provisions of this Paragraph, as between CNN Airport Network and the City, CNN Airport Network shall retain all Advertising Time included in the Service, and the revenue derived therefrom (subject to the amount payable to airports from the Service Revenue Pool). CNN Airport Network agrees that the City shall have the right to use up to six (6) one (1) minute segments per available hour (which may be used as two (2) thirty (30) second contiguous spots) during the day (the "Local Spots"), which may be used for sale to Local Advertisers (as defined below) or to promote the local area, the City, its concessions or community or region serviced by the Airport. In addition, the content inserted in the Local Spots (i) must be consistent with the production quality standards applied by CNN Airport Network to the Service; (ii) cannot suggest an affiliation with CNN Airport Network or any of its affiliates and any party unrelated to it; and (iii) must comply with Airport Rules and Regulations and policies. Additionally, the content or provider of such Local Spots may not promote, support or represent any

interest competitive to CNN Airport Network or any of its affiliates. The remaining Advertising Time in each Package may be made available by CNN Airport Network for sale to third parties ("Third Party Units"). CNN Airport Network shall have the absolute right to determine the rate applicable and the rate actually charged for all Third Party Units. The party responsible for providing the content for the Advertising Time hereunder shall be responsible for any liability related thereto, regardless of the nature of the claim; the City shall be responsible for all Local Spots and will indemnify CNN Airport Network for any claims relative to such Local Spots. With respect to the Local Spots, the City understands and agrees that its ability to sell the same to Local Advertisers shall be subject to compliance with all applicable laws, rules and regulations. For purposes of this provision, a "Local Advertiser" shall be defined as any local or regional business, company, non-profit group or other organization whose business is confined to the local or regional area serviced by the Airport. CNN Airport Network may, from time to time, permit the sale of the Local Spots to businesses that conduct operations on a national level but who are also involved in some type of specialized local or regional project that makes the area serviced by the Airport of particular interest for the duration of such project. The City understands that the Local Spots will appear on the Service only as it is delivered in the Airport. The City agrees and acknowledges that the content for the Local Spots must meet the general advertising policies and practices utilized by CNN Airport Network, a copy of which is attached hereto as Exhibit "B."

C. Local Insertion Capability. CNN Airport Network shall be responsible for the purchase, installation, operation, upgrade and maintenance of Insertion Equipment required to provide the necessary technical capabilities to allow the City to utilize the Local Spots. The Insertion Equipment shall be installed in the CNN Airport Network Headend Room so that such equipment can interface with CNN Airport Network's Service Equipment in accordance with CNN Airport Network's instructions.

CNN Airport Network shall have no responsibility whatsoever for producing, securing and/or selling the Local Spots, as applicable, and CNN Airport Network hereby expressly disclaims any liability for the content thereof. If such advertisements and/or programming is not provided by the City, or, if provided, such advertisements and/or programming are not updated regularly in accordance with CNN Airport Network's guidelines to maintain the quality of the Service, CNN Airport Network reserves the right to use the Local Spots as it deems appropriate and deliver its regularly scheduled Programming segments to the Airport. .

In the event that CNN Airport Network goes live to a breaking news event or interrupts its Service to provide coverage of a significant sporting or other event or a full length news program, the City will not be able to utilize the Local Spots and/or preempt the designated CNN Airport Network Programming segments to provide the Local Spots during the duration of alternative programming. Furthermore, CNN Airport Network will not be able to provide any "make goods" for the interrupted segments. CNN Airport Network expressly disclaims any responsibility or liability to the City for any lost revenue or other damages attributable to CNN Airport Network's decision to provide the alternative programming.

## 8. COPYRIGHT.

The City agrees and acknowledges that the sole right of copyright in, and all rights of copyright with respect to, the Service and the Programming (including, without limitation, the sequence or organization of CNN Airport Network's compilations of programming segments constituting the Service) belong, as between the City and CNN Airport Network, to CNN Airport Network, and that the City shall not acquire, obtain or claim any copyright or other proprietary ownership interests therein or thereto by virtue of this Agreement. Except to the extent expressly limited or prohibited by the terms of this Agreement, CNN Airport Network shall be entitled to, and hereby reserves all rights necessary to, exploit, exercise, dispose of and/or utilize any rights in, to and with respect to the Service and the Programming without limitation and without prior notice or any obligation to the City. Additionally, CNN Airport Network shall indemnify the City from any and all claims for royalties, fees or cost for the use of any music, photographs, art works, any third party owned or controlled (intellectual) property or images generated by CNN Airport Network at the Airport pursuant to this Agreement. Notwithstanding anything herein to the contrary, the City shall be responsible at its sole cost and expense for any and all licenses that may be required for the performance of any music at the Airport. CNN Airport Network shall be responsible at its sole cost and expense for any and all non-performance licenses that may be required for the Service at the Airport.

CNN Airport Network agrees and acknowledges that the sole right of copyright in, and rights of copyright with respect to, the Local Spots inserted by the City belong, as between the City and CNN Airport Network, to the City, and that CNN Airport Network shall not acquire, obtain or claim any copyright or the proprietary ownership interest therein or thereto by virtue of this Agreement. To the extent of the City's rights, the City shall be entitled to, and hereby reserves all rights necessary to, exploit, exercise, dispose of and/or utilize any rights in, to and with respect to the Local Spots inserted by it without limitation and without prior notice or any obligation to CNN Airport Network whatsoever.

9. SERVICE, MARKETING AND OTHER RELATED RESEARCH.

CNN Airport Network may perform observational studies or analyses and conduct oral and written surveys and polls of Airport patrons within the Approved Installation Areas for the limited purposes of collecting information related to the Service in general and the traffic flow and viewing opportunities within each area where Service Equipment has been installed during the Term of this Agreement, subject to the written approval of the City's designated representative in compliance with any applicable rules established by the City or any other governing authority, including the possession of any permit required therefor. CNN Airport Network or its designee shall notify the City in writing prior to conducting or performing such activities. Notwithstanding the foregoing or anything contained in this Agreement to the contrary, CNN Airport Network shall not have any obligation under this Agreement to perform or conduct any such research at the Airport except if and to the extent necessary to perform its payment obligations pursuant to Section 10 below. CNN Airport Network shall present its research conclusions with respect to the Service in general to the extent relevant to its operations at the Airport to the City upon reasonable request, however, CNN Airport Network shall retain all rights of ownership with respect to such research

and conclusions related thereto. Notwithstanding the foregoing, it is expressly agreed that CNN Airport Network shall not be obligated to disclose to the City any research information, conclusions and/or data specifically related to one or more advertisers, unless required by Applicable Law.

10. REVENUE PARTICIPATION ARRANGEMENT.

A. Calculation of Sums Owed by CNN Airport Network. For the privileges granted to CNN Airport Network hereunder, CNN Airport Network shall pay to the City the greater of (i) the Guaranteed Amount of Ninety Thousand Dollars (\$90,000.00) per annum, payable quarterly as follows, or (ii) the City Revenue Share Payment as this term is defined in section 1.4 herein. Within thirty (30) days of the beginning of each calendar quarter commencing July 1, 2012, CNN Airport Network shall calculate the City Revenue Share Payment for the immediately preceding calendar quarter and pay to the City the greater of (i) the Guaranteed Amount or (ii) the City Revenue Share Payment, whichever is greater.

B. Payment. All payments hereunder to the City shall be sent to the following address:

City of Philadelphia  
241758  
P.O. Box 8500  
Philadelphia, PA 19178-7158

Or to such other address as provided by the Chief Executive Officer of the Airport in writing. The City hereby agrees to be solely responsible for distribution to any other party of such other party's portion of sums actually paid by CNN Airport Network to the City pursuant to this Agreement.

C. Sales, Use or Other Taxes. CNN Airport Network shall be solely responsible for the payment of all sales, use or other taxes levied upon the fees and other charges payable by CNN Airport Network to the City hereunder, whether or not the same shall have been billed or collected by the City, together with any and all interest and penalties levied thereon, and CNN Airport Network hereby agrees to indemnify City and hold it harmless from and against all claims by any taxing authority that the amounts, if any, collected from CNN Airport Network and remitted to the taxing authority by City, or the amounts, if any, paid directly by CNN Airport Network to such taxing authority, were less than the total amount of taxes due, and for any sums including interest and penalties payable by City as a result thereof. The provisions of this Section shall survive the expiration or termination of this Agreement.

D. Additional Sums Due the City. If the City has paid any sum or has incurred any obligation or expense for which CNN Airport Network agreed to pay or reimburse City, or if City is required or elects to pay any sum or incur any obligation or expense because of the failure, neglect or refusal of CNN Airport Network to perform or fulfill any of the terms or conditions of this Agreement, including the capital investment required under Section 10.G. herein, then the same shall be deemed additional fees due hereunder, and CNN Airport Network

shall, immediately upon demand by the Chief Executive Officer of the Airport, reimburse City therefor.

E. Communications Concerning Disputed Debts. All (a) communications concerning disputes about debts that are owed or may be owed pursuant to this Agreement, and (b) payments in less than the full amount claimed by the City and tendered by CNN Airport Network as full satisfaction of a disputed debt or other amount owed, shall be sent by certified mail, return receipt requested to the following:

CNN Airport Network.  
Attn: Deborah Cooper  
One CNN Center  
SE 7  
Atlanta, Georgia 30303-2762

F. Reports. Within thirty (30) days of the end of each quarter after the first full quarter of the Term, CNN Airport Network shall deliver to the City a report which shall include all data, information and calculations used by CNN Airport Network to determine the City Revenue Share Payment payable hereunder for that quarter, including the amount of any payments made to the appropriate entity at each of the other participating airports. Upon written request of the City, CNN Airport Network shall make certain records available to the City for review during normal business hours as necessary to ascertain that the payments required hereunder have been made to the City in accordance with this Agreement. Notwithstanding the foregoing, the City shall have no right to review any of CNN Airport Network's books and records related to sales projections or any confidential information related to CNN Airport Network's individual advertisers.

Within one hundred and twenty (120) days of the beginning of each calendar year, CNN Airport Network shall deliver to the City a report summarizing CNN Airport Network's Service Revenue, the Service Revenue Pool, the City Revenue Share Payment, and the calculations used to determine those amounts, and the total amount paid to and/or owed to all participating airports (or their designees), including the Airport, for the immediately preceding calendar year. The report shall be prepared or verified by an independent, nationally recognized accounting firm, selected at CNN Airport Network's sole discretion and prepared by CNN Airport Network at its sole cost.

G. Capital Investment

CNN Airport Network shall make a capital investment in respect of the Service Equipment of no less than \$200,000.00 by January 1, 2013, as set forth in Proposal (Exhibit E) attached hereto in Section 5.1.1 entitled Financial Consideration, Proposed Capital Investment. In the event that CNN Airport Network shall fail to make the capital investment, or any part thereof, required herein, the City shall have the right to receive any such amount as part of the amounts referenced in Section 10.D. of the Agreement. CNN Airport Network shall provide documentation

with 30 days of the completion of the capital improvements supporting such capital investment as may be requested by the City.

11. PROTECTION OF THE SERVICE.

A. The City shall not have any right to record, duplicate, or redistribute all or any portion of the Service nor shall the City authorize any such recording, duplication, or redistribution of the Service unless specifically and expressly authorized in advance in writing by CNN Airport Network. The City agrees to cooperate fully and in good faith with CNN Airport Network and/or its agent or representative for the purposes of securing and preserving CNN Airport Network's rights herein and in and to the Service.

B. City shall not be liable to CNN Airport Network for any loss of business or damages sustained by CNN Airport Network as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the terminal complex or the Airport or any terminal therein.

12. DISCLAIMER.

Neither CNN Airport Network nor its suppliers nor any person or entity acting for or on behalf of CNN Airport Network has made or makes any warranties, express or implied, including, without limitation, implied warranties of merchantability or fitness for a particular purpose with respect to any product or service to be supplied by CNN Airport Network hereunder, all of which warranties are hereby expressly disclaimed. Any remedies of the City for any breach of this Agreement by CNN Airport Network shall be limited to those expressly provided herein and CNN Airport Network shall not have any liability to the City under any circumstances whatsoever for any incidental, indirect or consequential damages.

13. INDEMNITY, CONFIDENTIALITY AND INSURANCE.

A. Indemnification. CNN Airport Network shall indemnify, defend and hold completely harmless the Airport, the City (including without limitation, the Philadelphia City Council and Airport advisory committees), officers, agents and employees of each, from and against any and all claims, suits, demands, judgments, losses, costs, settlements, fines, penalties, damages, liabilities (including without limitation, statutory liability, liability under Workers' Compensation Laws and liability under any federal, state or local environmental laws or regulations), and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, reasonable expert witness fees, attorneys' fees and paralegal fees) which may be incurred by, charged to or recovered from any of the foregoing (a) arising directly or indirectly in whole or part out of CNN Airport Network's operations at the Airport or in connection with any of CNN Airport Network's rights, responsibilities and obligations contained in this Agreement, including, but not limited to, any and all claims for damages as a result of the injury to or death of any person or persons, or damage to any property and/or contamination or adverse effects on the environment which arises as a result of any act, omission, negligence or

fault on the part of CNN Airport Network or its officers, partners, employees, agents, contractors or subcontractors, regardless of where the damage, injury or death occurred, with the exception that no indemnification will be made to the City in the event of the City's willful misconduct or sole negligence, or (b) arising out of the failure of CNN Airport Network to keep, observe or perform any of its obligations under this Agreement. The City shall give CNN Airport Network reasonable notice of any suit or claim for which indemnification will be sought under this Section 13, allow CNN Airport Network and/or its insurer to compromise and defend the same to the extent of its interests and reasonably cooperate with the defense of any such suit or claim. In carrying out its obligations under this Section 13, CNN Airport Network shall use counsel reasonably acceptable to the City. The provisions of this Section 13 and Section 15.B. below shall survive the expiration or earlier termination of this Agreement.

B. Confidentiality. In connection with its operations, CNN Airport Network may receive, gain access to or otherwise obtain certain knowledge and information related to City's overall Airport security program, including, but not limited to, wiring plans and schematics ("Confidential Information"). CNN Airport Network covenants and agrees that no person, whether an officer or employee of CNN Airport Network or a third party under contract to CNN Airport Network shall disclose Confidential Information to any other persons unless such disclosure is authorized by the City.

C. Insurance.

1. Unless otherwise approved by the City's Risk Management Division in writing, CNN Airport Network shall, at its sole cost and expense, procure and maintain in full force and effect, during the Term and any extension or renewal thereof, the types and minimum limits of insurance specified under the Agreement, or such greater amounts as the City shall, from time to time require:

a. Workers' Compensation and Employers' Liability.

(1) Workers' Compensation: Statutory Limits

(2) Employers' Liability: \$500,000 Each Accident - Bodily Injury by Accident; \$500,000 Each Employee - Bodily Injury by Disease; and \$500,000 Policy Limit - Bodily Injury by Disease.

(3) Other states' insurance including Pennsylvania.

b. General Liability Insurance.

(1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 advertising injury; \$2,000,000 general aggregate and \$2,000,000 aggregate for products and completed operations.

(2) Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

c. Automobile Liability Insurance.

(1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

(2) Coverage: Owned, non-owned, and hired vehicles.

d. Umbrella Liability Insurance with limits totaling \$5,000,000 per occurrence when combined with insurance required under (1) Employer's Liability, (2) General Liability and (3) Automobile Liability above.

e. Property Insurance. All risk property insurance covering all improvements, betterments, equipment, trade fixtures, merchandise, business personal property and any other property in CNN Airport Network's care, custody and control in the amount equal to the full replacement value of the property with no penalty for coinsurance, including coverage during any construction or renovation period.

f. Professional Liability Insurance.

(1) Limit of Liability: \$2,000,000 with a deductible not to exceed \$100,000.

(2) Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences happening during the performance of the Services required under this Agreement shall be maintained in full force and effect under the policy or "tail" coverage for a period of at least two (2) years after completion of the Services.

2. With respect to the insurance listed above the following shall apply:

a. With the exception of the professional liability insurance, all of the foregoing policies shall be provided on an "occurrence" basis and not a "claims-made" basis.

b. The City of Philadelphia, its officers, employee and agents, shall be named as additional insureds on all liability insurance policies required hereunder except Worker Compensation and Employers' Liability, Property and Professional Liability Insurance. The City of Philadelphia shall also be named as loss

payee on the Property Insurance. All such policies shall include an endorsement stating that the coverage afforded these parties as additional insureds will be primary to any other coverage available to them.

c. Certificates of insurance evidencing the required coverages shall be submitted by CNN Airport Network to the Division of Aviation (Philadelphia International Airport, Terminal "D", Philadelphia, Pennsylvania, 19153, Attention: Airport Properties Manager), and the City's Risk Manager (1515 Arch Street, 14<sup>th</sup> Floor, Philadelphia, Pennsylvania 19102-1595), at least ten (10) days before commencement of the Term or a renewal term. CNN Airport Network's failure to furnish certificates of insurance as required herein shall be considered as a default with a cure period of ten (10) days after receipt of written notice thereof. Thereafter, and without further notice to CNN Airport Network, City may exercise any and all remedies set forth in this Agreement and at law or equity.

d. CNN Airport Network shall furnish copies of the original policies of all insurance required under the Agreement at any time within ten (10) days after written request by City.

e. All insurance policies shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, canceled or not-renewed. At least ten (10) days prior to the expiration of each policy, CNN Airport Network shall deliver to City a certificate of insurance or certificates of insurance evidencing a replacement policy to become effective immediately upon the termination of the previous policy.

f. From time to time during the Term of the Agreement and in any event not more frequently than every year, the City may adjust the amounts, types and deductibles of insurance required to reflect changed circumstances affecting the insurance requirement.

g. If CNN Airport Network fails to cause such insurance to be maintained, City shall not be limited in the proof of any damages which City may claim against CNN Airport Network or any other person or entity to the amount of the insurance premium or premiums not paid or incurred and which would have been payable upon such insurance, but City shall also be entitled to recover as damages, expenses of suit and costs, including without limitation, reasonable cancellation fees, suffered or incurred during any period when CNN Airport Network shall have failed or neglected to provide insurance as required herein.

h. The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in the Agreement by CNN Airport Network to City or to limit CNN Airport Network's liability under

this Agreement to the limits of the policies of insurance required to be maintained by CNN Airport Network hereunder.

3. CNN Airport Network shall not do or suffer to be done, any matter or thing whereby, or in consequence whereof, the policy or policies of insurance shall become voided or suspended, or which increase the risk or hazard of fire in or on the Airport unless, in the latter case only, such increased risk or hazard is adequately insured in City's sole discretion and the use creating such increased risk or hazard is permitted hereunder.

4. CNN Airport Network shall not permit separate insurance to be carried which relates to the Airport and is concurrent in form or contributing, in the event of loss, with that required to be maintained under this Agreement, or increase or permit to increase the amounts of any then existing insurance relating to the Airport by securing an additional policy or additional policies without including the applicable parties required in this Section as insured parties or additional insured. CNN Airport Network immediately shall notify city whenever such separate insurance is obtained and deliver to the City certificates evidencing such policies and, upon request, certified copies or duplicate originals of the same (as required in this Section and in accordance with the procedures set forth herein).

D. Irrevocable Letter of Credit, Performance Bond

1. At all times during the Term of this Agreement, CNN Airport Network shall maintain and deliver to City an irrevocable letter of credit or performance bond to provide security for the full and prompt performance by CNN Airport Network of the terms and covenants of this Agreement. The irrevocable letter of credit or performance bond shall be in an amount, adjusted annually, thirty (30) days prior to the anniversary date of this Agreement, equal to the greater of the twenty-five percent (25%) of the actual amount of payments paid or payable to the City on account of the guaranteed amount or the City Revenue Share Payment based on the current anniversary year. The amount of the letter of credit or performance bond for the first year of the Agreement shall be Twenty Two Thousand Five Thousand Dollars (\$22,500.00).

2. The irrevocable letter of credit or performance bond shall be issued by a bank or bonding company approved by the City and qualified to do business in the Commonwealth of Pennsylvania. The irrevocable letter of credit or performance bond shall be in such form as shall be approved by the City, in its reasonable discretion.

14. DAMAGE OR DESTRUCTION.

A. Relief in Event of Significant Damage.

If any portion of the Airport facilities in which CNN Airport Network operates hereunder, or any portion of the cabling network supplied by the City and used in connection with the Service is destroyed or damaged by fire, explosion, the elements, the public enemy, or other casualty, and such destruction or damage materially interferes with CNN Airport Network's operation of the Service, the City shall provide CNN Airport Network with alternate facilities or cabling reasonably equivalent, in the reasonable discretion of the Chief Executive Officer of the Airport, to the damaged or destroyed facilities or cabling sufficient to enable CNN Airport Network to operate the Service or, at City's option, the City may repair such facilities and cabling network; provided, however, that if in the reasonable discretion of the Chief Executive Officer of the Airport there are no such other suitable facilities or if there is not another suitable cabling system available at the Airport, and if the City does not repair such facilities and cabling network within ninety (90) days after such damage occurs, this Agreement may be terminated by either party hereto by notice to the other party within ten (10) days after the expiration of said ninety (90) day period.

**B. Damages Caused by CNN Airport Network.**

Notwithstanding the foregoing, if the damage or destruction referred to above is caused by the act or omission of CNN Airport Network, its officers, agents, servants, employees, contractors or subcontractors, the City shall have no obligation to provide relief to CNN Airport Network hereunder, and the City may, in its discretion, require CNN Airport Network to promptly complete repair and reconstruction of the damaged or destroyed facilities or cabling, or any portion thereof, and pay the costs thereof, or the City may repair and reconstruct said facilities or cabling and CNN Airport Network shall be responsible for reimbursing the City for the costs and expenses incurred in such repair or reconstruction.

**C. Limits to the City's Repair or Reconstruction.**

Notwithstanding any other provision hereof, the City shall have no obligation to CNN Airport Network to repair damage to the Airport's facilities or cabling, and the City shall in no event be obligated to repair, replace or reconstruct any equipment or other property of CNN Airport Network or to pay any cost with respect thereto. CNN Airport Network shall be solely responsible for the repair, replacement or reconstruction of its equipment and any improvements installed by CNN Airport Network.

**15. DEFAULT BY CNN AIRPORT NETWORK.**

**A. Events of Default.** Any of the following events shall constitute an Event of Default hereunder:

1. The failure of CNN Airport Network to make any payment required to be made by CNN Airport Network hereunder when due as herein provided, which failure is not remedied within ten (10) days after receipt by CNN Airport Network of the written demand of the Chief Executive Officer of the Airport;

2. The failure of CNN Airport Network to provide any financial report required to be submitted to the City or any officer or employee thereof by CNN Airport Network when due as herein provided, which failure is not remedied within ten (10) days after receipt by CNN Airport Network of the written demand of the Chief Executive Officer of the Airport;

3. The failure of CNN Airport Network to keep, observe or perform any of the other covenants or agreements herein required to be kept, observed or performed by CNN Airport Network and continued failure to observe or perform any such covenant or agreement after a period of thirty (30) days after receipt by CNN Airport Network of the written demand of the Chief Executive Officer of the Airport or in the event such default cannot reasonably be cured and/or performed within the thirty (30) day period, to commence the cure of such default within such thirty (30) day period and pursue such cure diligently to completion;

4. The discovery by the Chief Executive Officer of the Airport that any material statement of fact furnished by CNN Airport Network in connection with its proposal for this Service is false or materially misleading;

5. Failure to continuously operate the Service during the Term hereof without the prior written consent of the City, except as permitted under the provisions of this Agreement;

6. Commencement by CNN Airport Network, in any court pursuant to any statute of the United States or of any State, territory or government, of an insolvency or bankruptcy proceeding, including, without limitation, a proceeding for liquidation, reorganization or for the adjustment of its indebtedness;

7. Commencement of any insolvency or bankruptcy proceeding (including, without limitation, a proceeding for liquidation, reorganization or for adjustment of indebtedness) against CNN Airport Network, if an order for relief is entered against such party and the same is not stayed or vacated within thirty (30) days after entry thereof, or if such party fails to secure a discharge of the proceedings within sixty (60) days after the filing thereof;

8. The making by CNN Airport Network of an assignment for the benefit of its creditors or the filing of a petition for or the entering into an arrangement with its creditors;

9. The appointment or sufferance of a receiver, trustee or custodian to take possession of all or substantially all of the property of CNN Airport Network or of any guarantor or surety of this Agreement, whether or not judicial proceedings are instituted in connection with such appointment or sufferance;

10. The placement of any lien upon any improvements, fixtures, trade fixtures, signs, equipment or other property installed or used by CNN Airport Network at the Airport which is not discharged of record within thirty (30) days, or any levy under any such lien;

B. Remedies Upon CNN Airport Network's Default. Upon the occurrence of any Event of Default, as defined in Section 15.A above, the City, may pursue any of the following remedies, and/or such other remedies as may be available to the City at law or in such equity:

1. The City may terminate this Agreement by giving notice thereof to CNN Airport Network. In such event, the Term of this Agreement shall cease as of the date of such notice of termination and any and all rights, title and interest of CNN Airport Network hereunder shall likewise cease without further notice or lapse of time, as fully and with like effect as if the entire Term or any option period of this Agreement had elapsed; or

2. Without terminating this Agreement, terminate CNN Airport Network's right to possession of the premises, retake possession of the Service Equipment, and recover immediately from CNN Airport Network damages calculated as follows:

a. all unpaid fees that had been earned at the time of termination of CNN Airport Network's right to possession, together with,

b. the amount by which the unpaid fees earned after the date of termination of CNN Airport Network's right to possession of the Service until the time of award of a new agreement for the Service exceeds the amount of the loss of fees that CNN Airport Network proves has been or could have reasonably been avoided, together with,

c. the worth, at the time of such award, of the amount by which the unpaid fees for the balance of the term after the time of award of a new agreement for the Service exceeds the amount of the loss of fees that CNN Airport Network proves could reasonably be avoided.

(For purposes of subsection c. above, the worth, at the time of award, of such amount shall be determined by discounting such amount in accordance with accepted financial practice at the rate of four percent (4%) per annum to its present worth.)

Upon entry of judgment for such damages, as described above, this Agreement shall be deemed to be terminated.

C. Further Provisions Regarding Default.

1. In any event and irrespective of any option exercised, CNN Airport Network shall pay to the City upon demand all of the unpaid fees and other sums due from CNN Airport Network hereunder prior to the date that the City terminates the Agreement or CNN

Airport Network's right to possession of the Service, and all of the City's costs, charges and expenses, including reasonable attorney's fees, and fees of agents and others retained by the City, incurred in connection with the recovery of sums due under this Agreement, or because of the breach of any covenant or relief against CNN Airport Network, and including, with respect to the options set forth in Section 15.B.2. above, all costs and expenses of the City in connection with the reletting of the premises and collection of fees due and owing from any new concessionaire, and the cost of all repairs or renovations reasonably necessary in connection with the reletting, including, without limitation, brokerage and reasonable attorney's fees. Even if it has previously elected to proceed under Section 15.B.2. above, the City may, at any time thereafter, elect to terminate this Agreement; provided, however, that no action be taken by the City pursuant to this Agreement unless written notice of termination is given by the City to CNN Airport Network.

2. No waiver of any covenant or condition or of the breach of any covenant or condition of this Agreement shall be taken to constitute a waiver of any subsequent breach of such covenant or condition or to justify or authorize the non-observance on any other occasion of the same or of any other covenant or condition hereof. The acceptance by the City of any sums from CNN Airport Network at any time when CNN Airport Network is in default under covenant or condition hereof shall not be construed as a waiver of such default or of the City's right to exercise any remedy arising out of such default, nor shall any waiver or indulgence granted by the City to CNN Airport Network be taken as an estoppel against the City, it being expressly understood that the City may, at any time thereafter, if such default continues, exercise any such remedy in the manner hereinbefore provided or as otherwise provided by law or in equity.

3. The rights and remedies given to the City by this Agreement shall not be exclusive, and in addition thereto, the City shall have such other rights and may pursue such other remedies as are provided by law or in equity. All such rights and remedies shall be deemed to be cumulative, and the exercise of one such right or remedy by the City shall not impair its standing to exercise any other right or remedy.

4. It is expressly agreed that the City shall have a lien upon all goods, chattels, personal property and equipment of any description belonging to CNN Airport Network which are located on, or become a part of the Airport or any part of the premises or any improvements thereto, as security for any fees or other charges which are then due or which become due during the Term of this Agreement, which lien shall not be in lieu of or in any way affect the statutory landlord's lien given by law, and CNN Airport Network shall not remove or permit the removal of any of such property until any and all arrearages have been paid or defaults under this Agreement have been cured.

5. CNN Airport Network and the City hereby waive trial by jury in any action, suit or proceeding related to, arising out of or in connection with the terms, conditions, and covenants of this Agreement.

16. TERMINATION RIGHTS.

A. The City. In the event that any one of the following circumstances should occur, the City may, at its option, terminate this Agreement:

1. CNN Airport Network becomes insolvent or makes a general assignment for the benefit of creditors, or commits an act of bankruptcy, or has a petition in bankruptcy filed by it or by any other person or entity, or is adjudged a bankrupt, or shall liquidate or dissolve;

2. CNN Airport Network fails to make any payments required by this Agreement to the City or fails to cure any nonpayment breach of this Agreement within thirty (30) business days of its receipt of written notice from the City;

3. CNN Airport Network continues to breach any material covenant, agreement or obligation set forth in this Agreement for more than thirty (30) days after its receipt of any written notice with respect thereto from the City; or

4. The City determines in its sole reasonable discretion and notifies CNN Airport Network that the Service provided hereunder causes significant interference with the orderly operation of the Airport's primary business of facilitating air travel and no modification of the Service that is acceptable to CNN Airport Network will satisfactorily remedy the interference.

In addition to the foregoing, the City shall have the right to terminate this Agreement at anytime during the Term for any reason, including, without limitation, its own convenience. If the Agreement is terminated solely for the City's convenience, the City shall issue a termination notice which shall set forth the effective date of the termination.

B. CNN Airport Network. In the event that one of the following circumstances should occur, CNN Airport Network may, at its sole option, terminate the Agreement upon giving ninety (90) days written notice to the City:

1. CNN Airport Network's determination, in its sole discretion, to discontinue providing the Service to airports within the United States of America;

2. The default by the City in the performance of any material covenant or agreement herein required to be performed by the City, and the failure of the City to remedy such default for a period of thirty (30) days after receipt of written notice by CNN Airport Network to remedy the same; or

3. The inability of CNN Airport Network to deliver the Service or otherwise perform its obligations as contemplated hereunder by reason of any law, regulation or act of any governmental authority or court of competent jurisdiction.

C. Effect of Termination. Upon any termination of this Agreement pursuant to the terms of Section 16.B above, CNN Airport Network shall be relieved of any and all liability for further payment obligations hereunder, except with respect to amounts owing but unpaid to the City by CNN Airport Network for any period prior to the date of termination, or other acts or omissions of CNN Airport Network occurring prior to the date of termination.

17. ASSIGNMENT; SUBCONTRACTORS; THIRD PARTY BENEFICIARIES.

A. City's Rights to Approve Assignments and Subcontracts. CNN Airport Network shall not sell, assign, sublease or transfer this Agreement or any of its rights and privileges hereunder or permit any such sale, assignment, sublease or transfer to occur by operation of law, or contract for the performance of any of the services to be provided by it hereunder without the City's prior written approval, which approval may be granted or withheld by the City in the exercise of its sole discretion. The City may condition its approval of any such sale, assignment, sublease or transfer upon the payment to the City by CNN Airport Network of all or any portion of any fees CNN Airport Network receives from such purchaser, assignee, sublessee or transferee in excess of the fees (or a pro rata portion of the fees determined by the City to be attributable to the space that is the subject of such sale, assignment, sub-lease or transfer) payable to the City by CNN Airport Network under this Agreement. Any cost of considering or approving such a request for assignment or subcontract shall be borne by CNN Airport Network.

B. Change of Control. If CNN Airport Network is a corporation, the issuance or sale, transfer or other disposition of a sufficient number of shares of stock in the company to result in a change of control of CNN Airport Network shall be deemed an assignment of this Agreement for purposes of this Section 17. If CNN Airport Network is a partnership, transfer of any interest in the partnership, which results in a change in control of such CNN Airport Network, shall be deemed an assignment of this Agreement for purposes of this Section 17.

C. Subcontractors and Employees. Notwithstanding the foregoing, the City expressly acknowledges CNN Airport Network's right to engage the services of one or more third parties to assist CNN Airport Network in the performance of its obligations and responsibilities hereunder; provided, however, that any such third parties performing functions at the Airport meet any requirements imposed by the City on contractors providing similar services to the Airport, and by engaging any such third party, CNN Airport Network shall not be relieved of any obligation or representation hereunder.

D. Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to confer upon or give to any person or entity other than the parties hereto, any rights or benefits or remedies under or by reason of this Agreement. Further, no party to this Agreement shall have any rights hereunder not expressly granted to such party herein.

18. WAIVER OF CLAIMS.

CNN Airport Network hereby waives any and all claims it now has or may hereafter have against the Airport and the City, and against any member (including, without limitation, all members of the governing board of the Airport, the Philadelphia City Council, and the advisory committees of each), officers, agents or employees of each, for any loss of anticipated profits caused by any suit or proceeding attacking directly or indirectly the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null and void or voidable, or delaying the same or any part thereof from being carried out. CNN Airport Network further hereby waives any and all claims for compensation for any and all loss or damage sustained by reason of any delay in making the Airport available to CNN Airport Network or by reason of any defects or deficiencies in the premises or because of any interruption in any of the services thereto, including, but not limited to, power, gas, telephone, heating, air-conditioning or water supply systems, drainage or sewage systems, and CNN Airport Network hereby expressly releases the Airport and the City from any and all demands, claims, actions, and causes of action arising from any of such causes.

19. CITY'S RIGHT TO REPAIR OR ALTER FACILITIES.

Notwithstanding any other provisions herein contained, the City shall have the absolute right to make any repairs, alterations, modifications, improvements and additions to the terminal complex, free from any and all liability to CNN Airport Network for disruption to CNN Airport Network's activities during the completion of any such repairs, alterations, modifications, improvements or additions or for any loss of business or damages sustained by CNN Airport Network for whatever reason as a result of the foregoing. Notwithstanding the foregoing, (and subject to the pertinent provisions with respect to removal and relocation of Service Equipment contained in Section 5 above), the City agrees to use reasonable efforts to notify CNN Airport Network of the need to make such repairs, alterations and/or additions in advance in an effort to minimize any disruption to CNN Airport Network's operations.

20. REQUIRED, GENERAL AND MISCELLANEOUS PROVISIONS.

A. Agreements with the United States, State of Pennsylvania, County of Philadelphia and City of Philadelphia. This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all federal, state, county and city laws, and regulations affecting the same, and shall be subject and subordinate to the provisions of any and all existing agreements between Airport and the City of Philadelphia, and those between Airport or the City of Philadelphia and the United States of America, the Commonwealth of Pennsylvania, or the County of Philadelphia, or their boards, agencies or commissions, and to any future agreements between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the expenditure of federal, state, county or city funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

B. Right to Amend. In the event that the Federal Aviation Administration or its successors require modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for improvements at the Airport, CNN Airport Network hereby consents to any and all such modifications and changes as may be reasonably required except that, if any such modifications and/or changes have a material adverse effect on CNN Airport Network's operations, CNN Airport Network may, in lieu of consenting to such changes, elect to terminate this Agreement by written notice to the City within thirty (30) days after the date that CNN Airport Network is required to consent to such changes.

Likewise, CNN Airport Network shall comply with laws of the Commonwealth of Pennsylvania, prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should CNN Airport Network authorize another person or entity, with City's prior written consent, to provide Services or benefits in connection with its rights or obligations under this Agreement, CNN Airport Network shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the Services or benefits which it is authorized to provide, undertake for itself the obligations contained in this Section 20. CNN Airport Network will furnish the original or a true copy of such agreement to the City.

C. Applicable Law and Venue.

1. Applicable Law. This Agreement shall be subject to federal, state, and local law, and to applicable tariffs and regulations of the Pennsylvania Public Utility Commission (collectively, "Applicable Law"). Except as provided otherwise by Applicable Law, this Agreement and all disputes arising under this Agreement shall be governed, construed and decided in accordance with the laws of the Commonwealth of Pennsylvania.

2. Venue. Except as provided otherwise by Applicable Law, any lawsuit, action, claim, or legal proceeding involving, directly or indirectly, any matter arising out of or relating to this Agreement, or if the relationship created or evidenced thereby, shall be brought exclusively in the United States District Court for the Eastern District of Pennsylvania or the Court of Common Pleas of Philadelphia County. It is the express intent of the parties hereto that jurisdiction over any lawsuit, action, claim, or legal proceeding shall lie exclusively in either of these two forums. The parties hereto agree not to raise any objection to any lawsuit, action, claim, or legal proceeding which is brought in either of these two forums, and expressly consent to the jurisdiction and venue of these two forums.

D. Right to Modify. The parties hereto covenant and agree that, during the Term hereof, the City, upon advice of its legal counsel, may unilaterally modify this Agreement in order to conform to judicial or Federal Trade Commission rulings or opinions. This Section shall not preclude CNN Airport Network from contesting said rulings or opinions, but CNN Airport Network shall abide by the unilateral change while such a challenge is pending. Except as otherwise specifically provided in this Agreement, this Agreement may not be modified except by a written instrument signed by both parties.

E. Remedies; Attorney's Fees and Costs. All remedies provided to the City in this Agreement shall be deemed cumulative and additional, and not in lieu of or exclusive of each other or of any other remedy available at law or in equity arising hereunder. In the event that any legal proceedings at law or in equity arise hereunder or in connection herewith (including any appellate proceedings or bankruptcy proceedings), the prevailing party shall be awarded costs, reasonable attorneys' fees, paralegal fees and reasonable expert witness fees incurred in connection with such legal proceedings.

F. Warranty of CNN Airport Network as to Conflicts of Interest. CNN Airport Network represents and warrants to the City, that, except as may be disclosed in an Amendment hereto, no member, officer, employee or agent of the City has any interest, direct or indirect (excluding the ownership of any publicly traded shares of any company), in the business of CNN Airport Network to be conducted hereunder, and that no such persons shall have any such interest at any time during the Term hereof.

G. Public Announcements. The parties agree to use their respective best efforts to cooperate with each other regarding the timing and the content of any public releases, promotional materials, or other announcements related to this Agreement or the Service (to the extent the other party is referenced in such materials) prior to the issuance thereof; provided, however, that the City shall obtain CNN Airport Network's prior written consent if any such release or public announcement includes the trade name, trademark or service mark of CNN Airport Network or one of its affiliated entities.

H. Regulations of City. The rights and privileges granted to CNN Airport Network hereunder shall at all times be subject to the reasonable rules and regulations of the City as the same are now or may hereafter be prescribed through the lawful exercise of its power, including, but not limited to, all applicable provisions of the Airport's Rules and Regulations and the Policy and Procedures Manual, as the same may be amended from time to time.

I. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date delivered if delivered in person or by telecopy or telex (where written confirmation is provided and receipt is verbally confirmed), or by overnight courier (so long as the courier issues a receipt), or on the third (3rd) business day after it is mailed if mailed by registered or certified mail, postage prepaid, return receipt requested, and mailed in the United States to the respective parties as follows:

If to CNN Airport Network: CNN Airport Network.  
One CNN Center, SE07  
Atlanta, Georgia 30303  
Attn: Deborah Cooper  
Facsimile No.: (404) 827-4434

with a copy to: Turner Broadcasting System, Inc.

One CNN Center, 13 North  
Atlanta, Georgia 30303-2762  
Attn: General Counsel  
Facsimile No.: (404) 827-1995

If to the City:

The City of Philadelphia  
Philadelphia International Airport  
Terminal D  
Philadelphia, Pennsylvania 19153  
Attn: Deputy Director of Property Management/  
Business Development  
Facsimile No.: (215) 863.3998

With a copy to:

The City of Philadelphia  
Law Department  
One Parkway Building, 16<sup>th</sup> Floor  
1515 Arch St.  
Philadelphia, Pennsylvania 19102-1595  
Attn: Transportation Division  
Facsimile No.: (215) 683-5175

or to such other person's attention or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon actual receipt.

J. Non-discrimination.

1. In the performance of this Agreement, CNN Airport Network shall not discriminate nor permit discrimination against any person because of race, color, sex, religion, national origin or ancestry. CNN Airport Network agrees that such discrimination shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity. Accordingly, CNN Airport Network expressly agrees and understands this Agreement is entered into under the Philadelphia Home Rule Charter and in the exercise of the privileges herein granted, CNN Airport Network shall not discriminate or permit discrimination against any person because of race, color, religion, national origin, sex, sexual orientation or ancestry. Accordingly, without limiting any other provision of this Agreement, CNN Airport Network agrees to comply with Act 57 of 1998, 62 Pa.C.S. § 3701, and the Fair Practices Ordinance of the City of Philadelphia (Section 9-1100 of the Philadelphia Code) and the Mayor's Executive Order No. 4-86, as each may be amended from time to time.

2. In accordance with Chapter 17-400 of The Philadelphia Code, CNN Airport Network agrees that its payment or reimbursement of membership fees or other

expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity. CNN Airport Network agrees to include the immediately preceding sentence, with appropriate adjustments for the identity of the parties in all subcontracts which are entered into for work to be performed pursuant to this Agreement. CNN Airport Network further agrees to cooperate with the Commission on Human Relations of the City of Philadelphia in any manner which the said Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of The Philadelphia Code. Failure to so cooperate shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity.

3. CNN Airport Network covenants and agrees that in order to confirm the assurance required by the City by Title VI of the Civil Rights Act of 1964 and by 49 CFR Part 21 of the regulations governing the U.S. Department of Transportation ("DOT"), as amended, CNN Airport Network will not, in its performance under this Agreement, discriminate nor permit discrimination against any person or group of persons on the ground of race, color or national origin in any manner prohibited by 49 CFR Part 21. Non-compliance with this section will constitute an immediate Event of Default under this Agreement; therefore in the event of such non-compliance, in addition to all other rights and remedies the City has under this Agreement, at law or in equity, CNN Airport Network hereby authorizes City to take such action as the federal government permits to enforce compliance, including the right to seek judicial enforcement.

4. CNN Airport Network covenants and agrees that it will undertake an affirmative action program if required by 14 CFR Part 152, Subpart (E) as amended from time to time. CNN Airport Network assures Landlord that it will require its covered suborganizations (including any sub-concessionaires, contractors and/or subcontractors) to provide assurances to City that they similarly will undertake affirmative action programs and they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart (E), to the same effect.

5. CNN Airport Network shall insert appropriate provisions in all contracts relating to its performance under this Agreement to insure compliance by such contractors and subcontractors with the provisions of this Section 20J.

K. Airport Concession Disadvantaged Business Enterprise ("ACDBE") Requirements:

1. Insofar as concession operations, although this Agreement is not subject to the requirements of the U.S. Department of Transportation Regulations 49 CFR Parts

23 and 26, the City encourages CNN Airport Network to make every effort during the term of this Agreement to become compliant with 49 CFR Parts 23 and 26 (hereafter referred to as "ACDBE Compliant"). Nothing in this Agreement shall be interpreted to require CNN Airport Network, or any sub-concessionaire or concession operator, to become ACDBE Compliant, however, in the event CNN Airport Network, or any sub-concessionaire or concession operator, becomes ACDBE Compliant during the term of this Agreement, CNN Airport Network covenants and agrees, on behalf of itself and any sub-concessionaire or concession operator, to fully carry out and comply with, and to cause any sub-concessionaire or concession operator, to fully carry out and comply with, all of the requirements in 49 CFR Parts 23 and 26 and all of the requirements of the ACDBE Requirements in this Agreement and the City's current ACDBE Program (hereafter collectively referred to as the "ACDBE Requirements").

2. Accordingly, if CNN Airport Network becomes ACDBE Compliant, CNN Airport Network agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. CNN Airport Network shall include the foregoing statements in any subsequent concession agreement or contract related to this Agreement that it enters and cause those businesses to similarly include the statements in further agreements. Non-compliance with the Airport Concession Disadvantaged Business Enterprise Requirements in this Agreement or the ACDBE Program Requirements by CNN Airport Network, or any sub-concessionaire or concession operator, shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity.

3. Without limitation, CNN Airport Network shall employ, and shall cause any sub-concessionaire or concession operator, to employ disadvantaged persons (including minorities and females) as defined in 49 CFR Part 23, and utilize ACDBE firms in the provision of goods and services such as equipment, supplies, uniforms, security and legal services in accordance with the goals in the City's current ACDBE Program, as required by 49 Part CFR 23. Nothing in this Agreement shall be interpreted to require CNN Airport Network or any sub-concessionaire or concession operator to participate in any local diversity program which conflicts with 49 CFR Parts 23 and 26.

4. In addition, if CNN Airport Network, or any sub-concessionaire or concession operator, becomes ACDBE Compliant:

a. The City shall conduct compliance reviews, from time to time, to insure that CNN Airport Network is in compliance with the ACDBE Program Requirements.

b. CNN Airport Network, and any sub-concessionaire or concession operator, shall cooperate fully with the City, including but not limited to the Deputy Mayor of Transportation and Utilities (or his or her designee or successor), the Chief Executive

Officer (or his or her designee), and any other government agency with jurisdiction over compliance with the ACDBE Program or 49 CFR Parts 23 and 26, in (i) providing any information, documentation, etc. required by the City or any other government agency involved in monitoring compliance with the ACDBE Requirements within five (5) days of said request; (ii) complying with the City's requirements for approving ACDBE substitutions or other participation substitutions; and (iii) complying with the City's requirements for participation in the ACDBE Program or otherwise complying with any other matter within the City's authority, obligations and/or responsibilities. Notwithstanding any other rights or remedies available under the governing laws, City and CNN Airport Network shall use all commercially reasonable efforts and due diligence to resolve disputes relating to the ACDBE Requirements in accordance with the City's current ACDBE Program, and 49 CFR Parts 23 and 26.

c. In addition to the record requirements otherwise set forth in this Agreement, to confirm CNN Airport Network's compliance with the ACDBE Requirements, and the compliance of any sub-concessionaire or concession operator, CNN Airport Network, and any sub-concessionaire or concession operator, shall: (a) retain all records related to its compliance, and the compliance of its contractors and subcontractors, with the above requirements for a period of at least five (5) years following the termination of this Agreement; and (b) shall summarize in a Monthly Report, Quarterly Report and Annual Report all ACDBE activities at or in connection with this concession and report all minority and female employment utilization, demonstrating compliance with the ACDBE Requirements and such other information relative to compliance with the ACDBE Requirements as the City may reasonably require; and (c) produce all of the above in accordance with this Section.

d. If at any time during the Term of this Agreement, CNN Airport Network, or any sub-concessionaire or concession operator, shall qualify as an ACDBE, CNN Airport Network shall notify City immediately; and shall also comply with the following additional requirements:

(1) CNN Airport Network or any sub-concessionaire or concession operator shall remain at least fifty-one percent (51%) ACDBE owned at all times during the Term; provided, however, that City acknowledges and agrees that, if CNN Airport Network, or any sub-concessionaire or concession operator, fails to maintain its status as a certified ACDBE by the Pennsylvania Unified Certification Program ("PaUCP) during the Term of this Agreement due to CNN Airport Network, or any sub-concessionaire or concession operator, no longer meeting the statutory or regulatory requirements of ACDBE total gross sales or the statutory or regulatory personal net worth requirements, such failure shall not be considered a default by CNN Airport Network, or any sub-concessionaire or concession operator, under this Agreement, so long as the City continues fully to count ACDBE participation for the concession; and

(2) Each entity that holds the ACDBE ownership in CNN Airport Network, or any sub-concessionaire or concession operator, shall be certified as such by the PaUCP at all times during the Term; and

(3) CNN Airport Network, or any sub-concessionaire or concession operator, shall comply (unless such compliance is waived by City or otherwise to the extent required under applicable law) in full with the terms and conditions outlined in Exhibit D attached hereto and made a part hereof. Upon becoming ACDBE Compliant, Exhibit D shall be fully executed by CNN Airport Network or any sub-concessionaire or concession operator, as the case may be.

5. If CNN Airport Network, or any sub-concessionaire or concession operator becomes ACDBE Compliant, the failure thereafter of CNN Airport Network, or any sub-concessionaire or concession operator to comply with this Section 20.K. shall constitute a substantial breach of this Agreement entitling the City to all rights and remedies provided in this Agreement or otherwise available in law or equity.

L. Tax Indebtedness. The City of Philadelphia does not wish to do business with tax delinquents or other businesses indebted to the City. In furtherance of this policy, the following certifications have been developed and shall form a part of any contract resulting from this solicitation. The entity contracting with the City hereunder is referred to below as “CNN Airport Network”.

CNN Airport Network’s Certification of Non-indebtedness – CNN Airport Network hereby certifies and represents that CNN Airport Network and CNN Airport Network’s parent company(ies) and subsidiary(ies) are not currently indebted to the City of Philadelphia (the “City”), and will not at any time during this term of its Agreement (including any extensions or renewals thereof) be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, CNN Airport Network acknowledges that any breach or failure to conform to this certification may, at the option of the City, result in the withholding of payments otherwise due to CNN Airport Network and, if such breach or failure is not resolved to the City’s satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments and/or the termination of this Agreement for default (in which case CNN Airport Network shall be liable for all excess costs and other damages resulting from the termination).

Subcontractor’s Certification of Non-indebtedness – CNN Airport Network shall require all subcontractors performing work in connection with this Agreement to be bound by the following provision and CNN Airport Network shall cooperate fully with the City in exercising the rights and remedies described below or otherwise available at law or in equity:

“Subcontractor hereby certifies and represents that subcontractor and subcontractor’s parent company(ies) and subsidiary(ies) are not currently indebted to the City of

Philadelphia (“City”), and will not at any time during the term of Contractor’s agreement with the City (the “Agreement”), including any extensions or renewals thereof, be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. In addition to any other rights or remedies available to the City at law or in equity, subcontractor acknowledges that any breach or failure to conform to this certification may, at the option and direction of the City, result in the withholding of payments otherwise due to subcontractor for services rendered in connection with the Agreement and, if such breach or failure is not resolved to the City’s satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments otherwise due to subcontractor and/or the termination of subcontractor for default (in which case subcontractor will be liable for all excess costs and other damages resulting from the termination).”

M. MacBride Principles. Section 17-104(2) (b) of The Philadelphia Code prohibits the City from accepting bids from companies that do business in Northern Ireland, unless that business has implemented the fair employment principles embodied in the MacBride Principles. In furtherance of the Ordinance, CNN Airport Network makes the following certification and representations (the entity contracting with the City hereunder is referred to below as the “CNN Airport Network”):

1. In accordance with Section 17-104 of The Philadelphia Code, CNN Airport Network by execution of this Agreement certifies and represents that (i) CNN Airport Network (including any parent company, subsidiary, exclusive distributor, or company affiliated with CNN Airport Network) does not have, and will not have at any time during the term of this Agreement (including any extensions thereof), any investments, licenses, franchises, management agreements or operations in Northern Ireland and (ii) no product to be provided to the City under this Agreement will originate in Northern Ireland, unless CNN Airport Network has implemented the fair employment principles embodied in the MacBride Principles.

2. CNN Airport Network agrees that it will not utilize any suppliers or subcontractors at any tier (i) who have (or whose parent subsidiary, exclusive distributor or company affiliate have) any investments, licenses, franchises, management agreements or operations in Northern Ireland or (ii) who will provide products originating in Northern Ireland unless said supplier or subcontractor has implemented the fair employment principles embodied in the MacBride Principles. CNN Airport Network further agrees to include provisions with this subparagraph (b), with the appropriated adjustments for the identity of the parties in all subcontracts and supply agreements which are entered into in connection with the performance of any resulting contract.

3. CNN Airport Network agrees to cooperate with the City’s Director of Finance in any manner which the said Director deems reasonable and necessary to carry out the Director’s responsibilities under Section 17-104 of The Philadelphia Code. CNN Airport Network expressly understands and agrees that any false certification or representation in

connection with this subparagraph 3 and/or any failure to comply with the provisions of this subparagraph 3 shall constitute a substantial breach of any contract entitling the City to all rights and remedies provided in this Agreement or otherwise available in law (including, but not limited to Section 17-104 of The Philadelphia Code) or at equity. In addition, it is understood that false certification or representation is subject to prosecution under 18 Pa. C. S. Section 4904.

N. Executive Order 02-04: Gifts.

1. Pursuant to Executive Order 02-04, no official or employee in the Executive and Administrative Branch of the City shall solicit or accept, directly or indirectly, anything of value, including any gift, gratuity, favor, entertainment or loan from any of the following sources:

- a. A person seeking to obtain business from, or who has financial relations with the City;
- b. A person whose operations or activities are regulated or inspected by any City agency;
- c. A person engaged, either as principal or attorney, in proceedings before any City agency or in court proceedings in which the City is an adverse party;
- d. A person seeking legislative or administrative action by the City; or
- e. A person whose interests may be substantially affected by the performance or nonperformance of the official's or employees official duties.

2. Pursuant to Executive Order 02-04, no official or employee in the Executive and Administrative Branch of the City is entitled to solicit or accept, and CNN Airport Network understands and agrees that if it offers anything of value to a City official or employee under circumstances where the receipt of such item would violate the provisions of this Executive Order, CNN Airport Network shall be subject to sanctions with respect to future City contracts. Such sanctions may range from disqualification from participation in a particular contract to debarment, depending on the nature of the violation.

O. Americans With Disabilities Act: CNN Airport Network understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in the Agreement or from activities or services provided under the Agreement. As a condition of accepting and executing this Agreement, CNN Airport Network shall have complied with all provisions of the Americans With Disabilities Act (the "Act"), 42 U.S.C. §§ 12101 – 12213, and all regulations promulgated thereunder, as the Act and regulations may be amended

from time to time, which are applicable (a) to CNN Airport Network, (b) to the benefits, services, activities, facilities and programs of the City or of the Commonwealth of Pennsylvania, and (d) to the benefits, services, activities, facilities and programs of the City or of the Commonwealth, and, if any funds under the Agreement are provided by the federal government, which are applicable to the federal government and its benefits, services, activities, facilities and programs. Without limiting the applicability of the preceding sentence, CNN Airport Network shall comply with the “General Prohibitions Against Discrimination, “28 C.F.R. Part 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act”, as they may be amended from time to time, which are applicable to the benefits, services, programs and activities provided by the City through its outside contractors.

P. **Limited English Proficiency:** CNN Airport Network understands and agrees that no individual who is limited in his or her English language proficiency shall be denied access to services provided under this Agreement on the basis of that limitation. As a condition of accepting and executing this Agreement, CNN Airport Network shall have complied with all provisions of Title VI of the Civil Rights Act of 1964, the President of the United States of America Executive Order No. 12250, the Mayor of the City of Philadelphia Executive No. 04-01, “Access to Federally Funded City Programs and Activities for individuals with Limited English Proficiency” dated September 29, 2001, and all regulations promulgated thereunder, as the Act and regulations may be amended from time to time, which are applicable (a) to CNN Airport Network and (b) to the benefits, services, activities and programs of the City or of the Commonwealth, and if any funds under this Agreement are provided by the federal government and its benefits, services, activities and programs. Without limiting the applicability of the preceding sentence, CNN Airport Network shall comply with 45 C.F.R. 80 et seq. and all other regulations promulgated under Title VI of the Civil Rights act of 1964, as they may be amended from time to time, which are applicable to the benefits, services, programs and activities provided by the City through contracts with outside contractors.

Q. **Philadelphia 21<sup>st</sup> Century Minimum Wage Standard:** If CNN Airport Network is subject to Philadelphia Code Chapter 17-1300, as specified therein, CNN Airport Network shall comply with the minimum compensation standards by providing its employees with an hourly wage, excluding benefits of, at least 150 percent of the federal or state minimum wage, whichever is higher, as more fully set forth at Philadelphia Code Chapter 17-1305, and in addition, the minimum benefits standard set forth in Philadelphia Code Chapter 17-1305. CNN Airport Network shall promptly provide to the City all documents and information verifying its compliance with the requirements of Section 17-1300. Furthermore, CNN Airport Network shall notify each affected employee what wages are required to be paid. The Office of Labor Standards may grant a partial or total waiver of Section 17-1300 based on specific stipulated reasons elaborated in Section 17-1304 of the Philadelphia Code.

R. **Severability.** The provisions of this Agreement shall be severable. If any provision of the Agreement or the application thereof for any reason or circumstances shall to any extent be held to be invalid or unenforceable, the remaining provisions of the Agreement or the application of such provision to persons or entities other than those as to which it is held

invalid or unenforceable, shall not be affected thereby, and each provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

S. Headings. The headings in this Agreement do not in any way define, limit, describe or amplify the provisions of the Agreement or the scope or intent of the provisions.

T. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute one instrument. The Agreement shall not be effective or binding on either party unless or until each party executes one copy hereof.

U. No Third-Party Beneficiaries. Except as specifically provided in this Agreement, nothing contained in this Agreement shall be construed to confer upon or give to any person or entity other than the parties hereto, any rights or benefits or remedies under or by reason of this Agreement.

V. Miscellaneous Provisions.

1. CNN Airport Network and its employees shall promptly observe and comply with applicable provisions of all municipal, county, state or federal laws, ordinances, regulations or rules which govern or apply to CNN Airport Network or to its operations hereunder.

2. CNN Airport Network shall, at its own cost and expense, procure and keep in force during the Term of this Agreement, all necessary licenses, registrations, certificates, bonds, permits, and other authorizations as are required by law in order for CNN Airport Network to operate from the Airport hereunder, and shall pay all taxes (including sales and use taxes), assessments (including, without limitation, stormwater utility fees), excises, license, certification, permit and examination fees and impact fees which may be assessed, levied, exacted or imposed by all governmental authorities having jurisdiction, on CNN Airport Network's property, on its operations, on its gross receipts, on its income, on this Agreement and the fees payable to the City hereunder, on the rights and privileges granted to CNN Airport Network herein, at the Airport and on any and all improvements made at the Airport, and CNN Airport Network shall make and file all applications, reports, and returns required in connection therewith.

3. CNN Airport Network agrees to repair promptly, at its sole cost and expense and in a manner acceptable to the City, any damage caused by CNN Airport Network or any of its officers, agents, employees, contractors, subcontractors, CNN Airport Networks or invitees to the Airport or any improvements or property located thereon.

4. CNN Airport Network is not authorized to act as the City's agent hereunder and shall have no obligation to the City, express or implied, to act for or bind City hereunder and nothing contained in this Agreement shall be deemed or construed by the City or CNN Airport Network or by any third party to create the relationship of partnership or of joint

venture. No provision of this Agreement shall be deemed to make the City the joint employer of any employee of CNN Airport Network.

5. The City, through its designated agents, shall have the right during CNN Airport Network's normal business hours (and at any time during an emergency) to inspect the premises and the property of CNN Airport Network located thereon, in order to enforce this Agreement, to enforce applicable laws and regulations, and to protect persons and property.

6. The headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision of this Agreement.

7. Time is expressed to be the essence of this Agreement.

8. This Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.

9. Except as otherwise provided herein, if certain action may be taken only with the consent or approval of the Chief Executive Office of the Airport or the City, or if a determination or judgment is to be made by the Chief Executive Office of the Airport or the City, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the Chief Executive Office of the Airport, or the City.

10. CNN Airport Network understands that the premises are located within or adjacent to the air operations area of the Airport. CNN Airport Network shall comply with all applicable regulations of the Federal Aviation Administration relating to Airport security and shall control the premises and adjoining elevators so as to prevent unauthorized persons from obtaining access to the air operations area of the Airport. Any fines or other penalties incurred by the City as a result of CNN Airport Network's (or its subtenants') breach of this Section 20.U.10. shall be included in the indemnification provided to the City pursuant to Section 13.A. hereof.

W. Entire Agreement. This Agreement, together with the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements with respect to such subject matter, are merged herein.