



CITY SECRETARY
CONTRACT NO. 20060-Ab

AMENDMENT NO. 6 TO
CITY SECRETARY CONTRACT NO. 20060

**AGREEMENT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF
FORT WORTH ALLIANCE AIRPORT**

This **AMENDMENT NO. 6 TO CITY SECRETARY CONTRACT NO. 20060, AGREEMENT FOR THE MANAGEMENT, OPERATION AND MAINTENANCE OF FORT WORTH ALLIANCE AIRPORT** (“Amendment”) is entered into by and between the **CITY OF FORT WORTH, TEXAS** (the “City”), a home rule municipal corporation organized under the laws of the State of Texas and acting by and through Jesus J. Chapa, its duly authorized Assistant City Manager, and **ALLIANCE AIR MANAGEMENT, LTD.** (“Operator”), a Texas limited partnership acting by and through Thomas J. Harris, the President of Alliance Air Services, Inc., a Texas corporation and Operator’s sole general partner.

RECITALS:

WHEREAS, on or about December 15, 1993, the City and Alliance Air Services, Inc. entered into City Secretary Contract (“CSC”) No. 20060, an agreement for the management, operation and maintenance of Fort Worth Alliance Airport, which was subsequently amended pursuant to CSC Nos. 20994 (“Amendment No. 1”), 21756 (“Amendment No. 2”), 28547 (“Amendment No. 3”), 36390 (“Amendment No. 4”) and 38075 (“Amendment No. 5”) (collectively and as previously amended, the “Agreement”); and

WHEREAS, on or about April 24, 1995, Alliance Air Services, Inc. transferred, assigned and conveyed all of its right, title and interest in and to the Agreement to Operator via CSC No. 20978;

WHEREAS, the City and Operator now desire to (i) revise the “Term” provision in the Agreement due to new consideration provided by Operator;

WHEREAS, the City and Operator desire to end the current Existing Term of the Agreement effective as of the Amendment Date of this Amendment and enter into a New Term beginning on the Amendment Date of this Amendment and ending on December 31, 2050, with an additional ten year option to renew;

WHEREAS, the execution of this Amendment and the New Term will not bind the City to an agreement for more than forty (40) years in accordance with Section 22.020 of the Texas Transportation Code; and

WHEREAS, the City and Operator also desire to (i) revise the Operator’s revenue sharing obligations under the Agreement, and (ii) otherwise modify the Agreement, all as more particularly set forth in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Operator agree as follows:



1. Article 1 of the Agreement (Term) is hereby deleted in its entirety and replaced with the following:

“ARTICLE 1

TERM

- 1.1 The “Existing Term” of the Agreement commenced on January 1, 1994 and expires effective as of the Amendment Date of this Amendment. A new term, justified by new consideration provided by the Operator and identified in the below provisions of this Amendment, will begin on the Amendment Date of this Amendment and end on December 31, 2050 (“New Term”). The Agreement may then be renewed for one (1) additional ten (10) year term (the “Renewal Term”) following the New Term. Not more than three (3) years prior to the expiration of the New Term, Operator may notify the City in writing of its desire to renew this Agreement for the Renewal Term (a “Renewal Request”) which allows for the term of the Agreement to potentially extend to December 31, 2060. The City, in the City’s sole discretion, may (i) grant a Renewal Request or (ii) deny a Renewal Request, provided that the basis for such denial is not unreasonable under the circumstances.
 - 1.2 Notwithstanding the foregoing, if the FBO Condition (as described in Section 4.16 below) has not been satisfied on or before the FBO Deadline, then (a) the New Term of this Agreement shall automatically be amended, shortening the New Term to end on December 31, 2033, (b) instead of a single Renewal Request, Operator shall thereafter have the right to deliver to the City three (3) Renewal Requests (with each such Renewal Request being for a successive Renewal Term of ten (10) years each), and (c) the failure to satisfy the FBO Condition by the FBO Deadline shall constitute reasonable and sufficient grounds for the City to not approve the Renewal Request for the first of the three 10-year Renewal Terms. Upon satisfaction of the FBO Condition, this Section 1.2 shall automatically be deemed null and void.”
2. Article 4 of the Agreement (Responsibilities of the Operator) is hereby amended by the addition of Section 4.16, which states the following:

“4.16 Construction of New Fixed Based Operations Facility.

- a. New Fixed Based Operator Conditions.

Operator intends to design and construct (or cause to be designed and constructed by an affiliate of Operator or other third party) a new Fixed Based Operations (FBO) facility which will consist of a top of the line, newly constructed terminal building with a minimum size of eighty thousand (80,000) square feet, the location of which is generally identified on the site map attached as Exhibit A to this Amendment, which will meet the requirements listed in Exhibit B to this Amendment that would qualify the facility as part of the Air Elite Network, (or similar network with comparable requirements) providing line services, passenger and pilot amenities and customer service of a high standard meeting or exceeding the City of Fort Worth Aviation Minimum Standards for FBOs (collectively, the “FBO Facility”). Further, the Operator shall have a minimum investment of thirty million dollars (\$30,000,000.00) in Construction Costs from the Operator, affiliates of Operator or third parties (other than the

City) (the “Spending Commitment”), with Construction Completion (defined below) of the FBO Facility to occur on or before December 31, 2028, subject to force majeure (the “FBO Deadline”) (the Spending Commitment and Construction Completion being collectively referred to herein as the “FBO Condition”). For purposes of this section of the Agreement, the term “force majeure” shall include, without limitation, any delay or inability to obtain any necessary approvals from the City, the FAA and any other applicable governmental entity, provided that such delay or inability is not caused by or the result of Operator or Operator’s contractors or agents. “Construction Completion” shall be deemed satisfied upon completion of the FBO Facility, as evidenced by the issuance of a certificate of occupancy for the FBO Facility. “Construction Costs”, for the purpose of this Agreement, means costs expended by Operator, affiliates of the Operator or third parties (other than the City) directly in connection with construction of the FBO Facility including but not limited to actual site development expended for the FBO Facility, including directly-related contractor fees, costs of construction labor, supplies and materials for site preparation, construction and landscaping, and materials testing, engineering, architectural and other design and consulting fees; construction management fees; costs of governmental permits and inspection fees related to site preparation and construction; demolition; environmental remediation; signage costs; the costs of supplies and materials; and costs related to the alteration or improvements to, new and existing buildings. For removal of doubt, property acquisition costs and inventory investment costs do not constitute “Construction Costs.”

b. Final Construction Report.

Following satisfaction of the FBO Condition, in order for the City to assess whether the FBO Condition was met, Operator must provide the City with a report (“Final Spending Report”) in a form reasonably acceptable to the City that specifically outlines the total Construction Costs expended or caused to be expended for the FBO Facility, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid, including, without limitation, final lien waivers signed by the general contractor for the FBO Facility.

c. Inspections During Construction of FBO Facility.

During construction of the FBO Facility, at any time during Operator’s normal business hours and following reasonable written notice to Operator, the City will have the right to inspect and evaluate the FBO Facility in its entirety, and Operator will provide full access to the same, in order for the City to monitor compliance with the terms and conditions of this Agreement. Operator will cooperate fully with the City during any such inspection and evaluation. Notwithstanding the foregoing, Operator will have the right to require that any representative of the City be escorted by a representative or security personnel of Operator during any such inspection and evaluation and that any reasonable requirements of the general contractor or any insurer be followed.

d. Audits.

The City will have the right throughout the Term to audit the financial records of Operator or any Affiliate that relate to the Spending Commitment for the FBO Facility as necessary to evaluate Operator’s compliance with the Spending Commitment set forth in this Agreement (collectively “Records”) during Operator’s normal business hours. Operator must make all Records available to the City at Alliance Airport or at another location in the City acceptable

to both parties following reasonable advance written notice by the City and will otherwise cooperate fully with the City during any audit. The number of audits shall be limited to two (2) during each calendar year during the Term.

e. Certificate of Completion.

Within thirty (30) calendar days following receipt by the City of the Final Spending Report for the FBO Facility submitted in accordance with Section 4.16(b), if the City is able to verify that the FBO Condition set forth in Section 4.16(a) has been met (that is, that Operator expended or caused to be expended at least Thirty Million Dollars (\$30,000,000.00) in Construction Costs for the FBO Facility by the FBO Deadline, and that Construction Completion occurred on or before the FBO Deadline, the City and Operator will both execute a written certificate stating that the FBO Condition was fully satisfied on or before the FBO Deadline (the "Certificate of Completion")."

3. Section 5.9 of the Agreement (Operator's Revenue Sharing) is hereby deleted in its entirety and replaced with the following:

"5.9 Operator's Revenue Sharing.

(a) From January 1, 1994 through December 31, 1998, the City shall retain the following percentages of Airport Revenue: zero percent (0%) of the first \$500,000; fifteen percent (15%) of the amount in excess of \$500,000 but less than \$1,500,000.00; and twenty and seven-tenths percent (20.7%) of the amount in excess of \$1,500,000.00. During that same period, as total compensation for all services and obligations performed by Operator under this Agreement, Operator shall receive the following percentages of Airport Revenue: one hundred percent (100%) of the first \$500,000; eighty five percent (85%) of the amount in excess of \$500,000 but less than \$1,500,000.00; and seventy-nine and three-tenths percent (79.3%) of the amount in excess of \$1,500,000.00.

(b) From January 1, 1999 through December 31, 2008, the City shall retain the following percentages of Airport Revenue: fifteen percent (15%) of the first \$1,500,000.00 and twenty and seven-tenths percent (20.7%) of the amount in excess of \$1,500,000.00. During that same period, as total compensation for all services and obligations performed by Operator under this Agreement, Operator shall receive the following percentages of Airport Revenue: eighty-five percent (85%) of the first \$1,500,000.00 and seventy-nine and three-tenths (79.3%) of the amount in excess of \$1,500,000.00.

(c) From January 1, 2009 through December 31, 2013, the city shall retain twenty percent (20%) of all Airport Revenue and, as total compensation for all services and obligations performed by Operator under this Agreement, Operator shall receive eighty percent (80%) of all Airport Revenue.

(d) From January 1, 2014 until December 31, 2019, the City shall retain twenty-five percent (25%) of all Airport Revenue and, as total compensation for all services and obligations performed by Operator under this Agreement, Operator shall receive seventy-five percent (75%) of all Airport Revenue.

(e) From January 1, 2020 until the end of the New Term, and during any Renewal Term thereafter, the City shall retain thirty-five percent (35%) of all Airport Revenue subject to the terms and conditions set forth in Section 5.9(e)(1) of this Agreement and, as total compensation for all services and obligations performed by Operator under this Agreement, Operator shall receive sixty-five percent (65%) of all Airport Revenue. For the avoidance of doubt and as an example, if the total Airport Revenue for a given period is \$1,000,000.00, then the City shall retain \$350,000.00 (\$100,000.00 of which the City will deposit into the Alliance Airport Capital Fund), and Operator shall receive \$650,000.00.

(1) Alliance Airport Capital Fund.

Ten percent (10%) of total Airport Revenue taken from the City's 35% share of Airport Revenue shall be deposited by the City into a new capital fund titled the "Alliance Airport Capital Fund." For the avoidance of doubt and as an example, if the total Airport Revenue for a given period is \$1,000,000.00, then the City shall retain \$350,000.00 (\$100,000.00 of which the City will deposit into the Alliance Airport Capital Fund), and Operator shall receive \$650,000.00. The Alliance Airport Capital Fund shall be used only for (i) capital maintenance on City owned Airport Facilities (defined below) at Alliance Airport as part of the local (City) contribution for Federal Aviation Administration ("FAA") approved airport projects funded by airport improvement program grants; (ii) repair, rebuilding and replacement of the airfield and infrastructure at Alliance Airport which are either (A) set forth on the Capital Budget for Alliance Airport prepared by Operator and approved by the City, or (B) emergency repairs that may be necessary to avoid cessation or disruption of normal operations at Alliance Airport; and/or (iii) new infrastructure or safety projects at Alliance Airport which are approved by the City including, without limitation, runways, taxiways, aprons, lighting, markings, stripings, and navigation aids. Notwithstanding anything to the contrary, Operator shall have no responsibility or obligation for the costs and expenses of capital projects including, without limitation, the costs and expenses of design, engineering, initial construction, capital maintenance, repair, rebuilding or replacement of Airport Facilities.

(2) Airport Facilities.

"Airport Facilities" shall include, without limitation, airfield improvements and facilities, runways, taxiways, aprons, lighting, markings, stripings, navigation aids, roads, drives, driveways, sidewalks, parking lots, fencing, erosion prevention, safety facilities, noise mitigation projects, drainage facilities, utilities, buildings, fuel facilities, and other infrastructure facilities and improvements at Alliance Airport.

(3) Sudden Reduction in Revenue from Landing Fees.

In the event that revenue from landing fees at Alliance Airport drops by more than twenty-five percent (25%) during any sixty (60) day period (such as in the event that one or more of the carriers or users of Alliance Airport cease or dramatically reduce operations at Alliance

Airport), Operator may thereafter send written notice to the City, in which event the City and Operator agree to meet and discuss the possibility of adjusting the allocations of Airport Revenue set forth in Section 5.9(e) above.”

4. All capitalized terms used herein which are not otherwise defined have the same definitions as set forth in the Agreement.
5. This Amendment may be executed in multiple counterparts, each of which will, for all purposes, be deemed an original, but which together will constitute one and the same instrument.
6. Except as otherwise specifically amended herein, the Agreement remains in full force and effect as agreed to by the parties.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to be effective as of the 1st day of January, 2020 (the "Amendment Date").

CITY OF FORT WORTH:

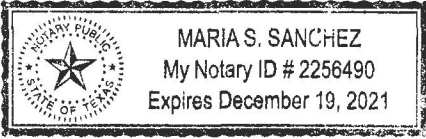
By: [Signature]
Name: Jesus J. Chapa
Assistant City Manager

Date: 2-5-2020

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Jesus J. Chapa, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the **City of Fort Worth** and that he executed the same as the act of the **City of Fort Worth** for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of February, 2020.



[Signature]
Notary Public in and for the State of Texas

APPROVED AS TO FORM AND LEGALITY:

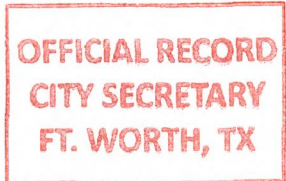
By: [Signature]
Name: Thomas Royce Hansen
Assistant City Attorney

ATTEST:

By: [Signature]
Name: Manjasa
City Secretary



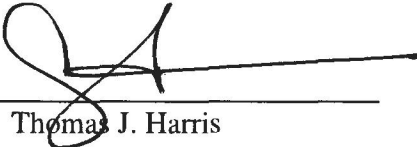
M&C No. 19-0393 12/17/19
HB 1295: 2019-506527



OPERATOR:

ALLIANCE AIR MANAGEMENT, LTD.,
a Texas limited partnership

By: Alliance Air Services, Inc.,
a Texas corporation,
its general partner

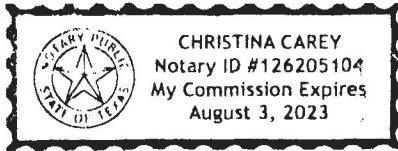
By: 
CAK Thomas J. Harris
President

THE STATE OF TEXAS

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COUNTY OF TARRANT

This instrument was acknowledged before me on January 13, 2020, by Thomas J. Harris, President of Alliance Air Services, Inc., a Texas corporation, in its capacity as general partner of Alliance Air Management, Ltd., a Texas limited partnership, on behalf of said limited partnership.



Christina Carey
Notary Public in and for the State of Texas

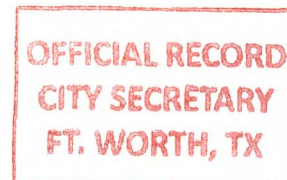


Exhibit A
to Amendment No. 6

[see following page(s)]



Future Alliance Aviation Services FBO Expansion- Overview Exhibit

Area A1 -- Ground Lease Parcel 1- Undeveloped Land

Area A2 -- Ground Lease Parcel 3- Demolition of Existing FBO

Area A3 -- Parcel 4- Freedom Plaza



Exhibit B
to Amendment No. 6

Air Elite Requirements

1. Modern facility that is kept in a clean and professionally well maintained condition
2. Lobby waiting area for passengers and guests
3. Customer service center or area
4. Separate pilots' lounge, flight planning area, and/or crew snooze room
5. Private conference room with access to media facilities
6. Location for crew to store items
7. A hangar of reasonable condition with light and ventilation.
8. Both long and short term parking available in well lit, well secured location
9. Shower facility
10. Separate line operations facilities
11. Reception and customer service desk/center
12. Lobby waiting area for passengers and guests
13. Pilots Lounge/Snooze Room/Flight Planning Area
14. Commercial kitchen
15. Conference Room
16. Well maintained restrooms

Mayor and Council Communication

DATE: 12/17/19

M&C FILE NUMBER: M&C 19-0393

LOG NAME: 55AFW ALLIANCE MANAGEMENT AGREEMENT

SUBJECT

Authorize Execution of an Amendment to the Agreement with Alliance Air Management, LTD for the Management, Operation and Maintenance of Fort Worth Alliance Airport (COUNCIL DISTRICT 7)

RECOMMENDATION:

It is recommended that the City Council authorize the execution of an amendment to the management agreement with Alliance Air Management, LTD for Fort Worth Alliance Airport to provide for an extension option after expiration of the current agreement and revision to the revenue split from 75/25 to 65/35 with 10% of the City's revenue allocated to capital projects.

DISCUSSION:

On December 15, 1993, the City and Alliance Air Services, Inc. entered into City Secretary Contract ("CSC") No. 20060, an agreement for the management, operation and maintenance of Fort Worth Alliance Airport (Airport), which was subsequently amended five times for various reasons, including the transfer of the contract to Alliance Air Management, Ltd. (Alliance Air). The current contract ends on December 31, 2023 with an opportunity to extend for one ten-year term to December 31, 2033.

Alliance Air requests to exercise the remaining 10-year extension as well as amend the current contract to provide for the option to extend the contract to December 31, 2053, contingent on Alliance Air expending \$30 million dollars for a state-of-the-art Fixed Base Operations (FBO) facility. Extending the term of the Agreement will enable Alliance Air to secure financing for construction of the FBO facility. If Alliance Air does not complete the FBO development by December 31, 2028 or expend the required \$30 million dollars in the FBO facility, then the contract will not automatically renew and the Agreement would expire on December 31, 2033, with optional extensions at the City's discretion.

Under the current Agreement, the City retains 25% of all Airport revenue and as total compensation for all services and obligations performed per the agreement by AllianceAir, AllianceAir receives 75% of all Airport revenue. If approved, this Amendment will reduce Airport revenue allocated to AllianceAir to 65% and increase City Airport revenue to 35%, 10% of which will be segregated to be used for capital projects at the Airport as recommended by Aviation and approved by City Council. Changes to the revenue share would begin on January 1, 2020 if the amendment is approved.

History of revenue at current rate agreement:

	Total Revenue	Alliance 75%	CFW Aviation 25%
FY 2019	\$ 2,168,374.46	\$ 1,626,280.85	\$ 542,093.62
FY 2018	\$ 2,160,670.77	\$ 1,620,503.08	\$ 540,167.69
FY 2017	\$ 2,004,843.65	\$ 1,503,632.74	\$ 501,210.91

Projected revenue with proposed rate agreement (includes projected Amazon revenue):

	Total Revenue	Alliance 65%	CFW Aviation 25%	Capital Project Funds 10%
FY 2020	\$ 3,500,806.96	\$ 2,275,524.52	\$ 875,201.74	\$ 350,080.70

This property is located in COUNCIL DISTRICT 7.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that the Aviation Department (and Financial Management Services) is responsible for the collection and deposit of funds due to the City, and prior to any expense being incurred, the Aviation Department also has the responsibility to validate the availability of funds.

Submitted for City Manager's Office by: Fernando Costa 6122

Originating Business Unit Head: Bill Welstead 5402

Additional Information Contact: Bill Welstead 5402