



REQUEST FOR PROPOSALS (RFP)
AUTOMATED TELLER MACHINE (ATM) SERVICES

PHOENIX MESA GATEWAY AIRPORT AUTHORITY

Issue date: May 22, 2023
Dates & times are subject to change

RFP INFORMATION	
SOLICITATION 2023-020-RFP	
Contact	Marian Whilden, Procurement Officer
Email Address	mwhilden@gatewayairport.com
Pre-Submittal Meeting	Date: June 8, 2023 Time 1:30 PM (Arizona Time) Location: Phoenix Mesa Gateway Airport Authority Administration Building 5835 S. Sossaman Road Mesa, AZ 85212
Site Tour	There is no site tour for this solicitation
RFP Submittal Mailing/Delivery Address	5835 S. Sossaman Road Mesa, Az 85212
Due Date for Questions and Clarifications	June 21, 2023 by 5:00 PM (Arizona Time)
*RFP Submittal Due Date	June 29, 2023 by 2:00 PM (Arizona Time)

***PMGAA's Administration Offices are closed on Fridays, Saturdays, and Sundays therefore, submittals will not be accepted on these days.**

Additional Information:

- Proposals must be submitted in a sealed envelope.
- Proposals must have the solicitation number clearly indicated on the envelope/box.
- Proposals must have the Offerors name and address clearly indicated on the envelope/box.
- Receipts are available upon request.
- Late submittals will not be considered.
- PMGAA may cancel this solicitation at any time for any legally permissible reason.

Responses to questions received will be issued in an addendum to the Request for Proposals and posted at www.gatewayairport.com under the Business|Procurements, Vendors & Public Notices section of the website. Offerors are responsible for checking the PMGAA website for any addenda that may be created for this solicitation.

Request for Proposals

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Public Record Notice

All submittals in response to this solicitation shall become the property of PMGAA, shall not be returned to Offeror and shall become a matter of public record available for review subsequent to the contract award.

Please note that PMGAA's Procurement Policy requires:

If the Offeror deems any portion of its submittal as confidential, the Offeror must label each and every page of the confidential portions with: "Trade Secret", "Confidential" and/or "Proprietary". The Offeror must also list each of the materials it deems confidential at the beginning of its proposal, and provide a written, detailed justification for not making such material public, along with its submittal.

Additional information and requirements can be found in PMGAA's complete "Public Access to Procurement Information" contained in PMGAA's Procurement Policy that is available under the Policies, Documents and Forms link at:

<https://www.gatewayairport.com/policiesdocumentsandforms>

PMGAA encourages all Offerors to review this policy in its entirety prior to submitting a proposal.

SUBMITTAL CHECKLIST

This checklist is provided for your convenience only. You do not need to submit it with your proposal. See the RFP for more information regarding each item.

- ☐ Submittal Cover Sheet
- ☐ **Tab B**
 - ☐ Cover Letter
 - ☐ Attachment A, Offeror's Identification Statement
- ☐ **Tabs C and D**
 - ☐ Requested Submittal Information
- ☐ **Tab E**
 - ☐ Attachment B, Proposed Concession Fee
- ☐ **Tabs F and G**
 - ☐ Requested Submittal Information
- ☐ **Tab H**
 - ☐ ACDBE Outreach Documentation
 - ☐ Attachment C
- ☐ **Tab I**
 - ☐ Requested Submittal Information
- ☐ **Tab J**
 - ☐ Attachment D, Standard Certifications
 - ☐ Attachment E, Authorization for Release of Performance Information and Waiver
 - ☐ Attachment F, Offer Agreement
 - ☐ Attachment G, Insurance Requirements & Certificate of Insurability
 - ☐ Attachment H, Agreement Review Statement
- ☐ **Tab K**
 - ☐ Attachment I, Addenda Acknowledgement (if issued, check website).
- ☐ Four (4) complete copies of Offeror's submittal
- ☐ One (1) electronic copy of Offeror's submittal
- ☐ Proposal Guarantee

REQUEST FOR PROPOSALS
SOLICITATION 2023-020-RFP Automated Teller Machine Services

SUBMITTAL COVER SHEET

Name of Offeror: _____

EIN#: _____

Principal Address: _____

Primary Point of Contact: _____

Phone: _____

Email: _____

The undersigned hereby affirms that:

- The undersigned is a duly authorized agent of the Offeror
- The undersigned has read and understands all terms, conditions and commitments contained within the RFP and any addenda issued and fully understands and accepts these terms by submission of a proposal.
- The submission is being offered independently of any other Offeror and did not involve collusion or other anti-competitive practices.

By: _____
Signature

Printed Name/Title

Company Name

Date

Introduction

Purpose:

The Phoenix-Mesa Gateway Airport Authority (“PMGAA”) is issuing a Request for Proposal (“RFP”) to solicit competitive proposals from Offerors with expertise in Automated Teller Machine (“ATM”) services. PMGAA is seeking a business relationship that will provide efficient, responsive, and professionally managed ATM services to satisfy the needs of the traveling public at the Airport, while optimizing annual operating revenues for PMGAA and its ATM services partner.

Background:

The Phoenix-Mesa Gateway Airport (“Airport”) is located in Mesa, Arizona, the state’s third largest city. Situated within the Phoenix, Arizona metropolitan area, the Airport serves as a small hub, commercial and general aviation service reliever airport to Phoenix Sky Harbor International Airport. The Airport is located in a region experiencing incredible population growth.

The Airport is owned and operated by PMGAA. PMGAA’s mission is “Strive to be the airport that air travelers choose, airlines prefer, and a growing number of businesses call home. We will provide exceptional customer service while operating Phoenix-Mesa Gateway Airport in a safe, secure, efficient and fiscally responsible manner.” The PMGAA Board of Directors is represented by the Cities of Apache Junction, Mesa and Phoenix, Towns of Gilbert and Queen Creek, and the Gila River Indian Community. The Board of Directors provides policy direction for PMGAA. An Executive Director and professional staff conduct the day-to-day activities of PMGAA.

The Airport currently hosts two airlines (Allegiant Air and Sun Country) which provide non-stop service to more than 46 destinations in the U.S. and Canada. Allegiant Air is the most dominant carrier accounting for vast majority of the total enplanements at the Airport. Commercial passenger service originally started at the Airport in October 2007 and has grown significantly over the last fifteen years. The Airport experienced 1.89 million total passengers during calendar year 2022. Five popular destinations from the Airport were 1) Provo, UT; 2) Sioux Falls, SD; 3) Fargo, ND; 4) Cedar Rapids, IA; 5) Bellingham, WA.

Section One - Offeror Information and Instructions

A. GENERAL INFORMATION ON SOLICITATION PROCESS

1. **Availability of Solicitation.** The solicitation package is available via the Internet at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section.
2. **Addenda.** If PMGAA deems it necessary to amend the solicitation, an Addendum will be prepared in writing and posted on the PMGAA website. Offerors are responsible for obtaining all addenda via the PMGAA website at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section or by other means. Any Addenda issued by PMGAA will become a part of the RFP. Offeror shall acknowledge receipt of each addendum by completing Attachment I and returning the document, as part of the Offeror's submittal under this RFP.
3. **Familiarization with Requirements.** It is the Offeror's responsibility to examine the entire solicitation package and seek clarification of any requirement or contract term that may not be clear and to check all responses for accuracy before submitting a response. Negligence in preparing a submittal confers no right of withdrawal after due date and time. All submissions must comply with applicable PMGAA rules, regulations and policies.
4. **Cost of Submittal Preparation.** PMGAA shall not reimburse the cost of developing, presenting or providing any response to this solicitation. Bids, proposals and/or statements of qualifications submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner.
5. **Inquiries.**
 - a. Contact Person. Any inquiry related to a solicitation, including any requests for or inquiries regarding standards referenced in the solicitation should be directed to the staff member listed on the cover page of the solicitation. The Offeror shall not contact or direct inquiries concerning this solicitation to any other PMGAA employee unless the solicitation specifically identifies additional person(s) as a contact.
 - b. Submission of Inquiries. All inquiries shall be submitted in writing and/or electronic mail and shall refer to the appropriate solicitation number, page and paragraph. PMGAA shall consider the relevancy of the inquiry but is not required to respond in writing. All questions must be submitted by the date and time specified in this RFP for PMGAA to consider its relevancy.
 - c. Oral Responses. Oral interpretations or clarifications will be without legal effect. An Offeror shall not rely on oral responses to inquiries. An oral reply to an inquiry does not constitute a modification of the solicitation.
6. **Offer and Acceptance Period.** Unless specified differently in Section Two, all proposals submitted shall remain valid and irrevocable for one hundred twenty (120) days after the opening time and date of proposals.
7. **Solicitation Results.** Results are not provided in response to telephone inquiries. A tabulation of responses received will remain on file at PMGAA and available for review after a contract is awarded.
8. **Protest of Solicitation or Specifications (Before Bid Opening).**
 - a. Any interested person aggrieved in connection with the solicitation of a contract shall protest irregularities in the IFB, RFP, or RFQ within three business days from the date the protester knew or should have known of the basis for the protest and, in any case, at least five business days before opening bids or proposals.

- b. All protests must be made in writing to the Purchasing Director / Chief Financial Officer. Each protest must state the specific factual and legal grounds on which the protest is based. The protester must also include with the protest all pertinent documents and all supporting evidence. PMGAA need not accept any protest that fails to comply with the requirements of this section. The protester's failure to timely protest specifications or other solicitation terms and conditions constitutes a waiver of the protest.
- c. If a timely protest before bid opening is made, PMGAA may proceed with the solicitation or with the award of the contract unless the Purchasing Director / Chief Financial Officer determines in writing that the protest should be sustained or that an addendum addressing the protest should be issued.

9. Protest of Award Recommendation.

- a. A protest made after the deadline for bids or proposals, including challenges to the evaluation committee, must be submitted in writing to the Purchasing Director / Chief Financial Officer.
- b. A protest must be received by the Purchasing Director / Chief Financial Officer within five business days following public posting of PMGAA's award recommendation. The formal protest must contain the following information.
 - i. PMGAA's solicitation identification number and title.
 - ii. Name and address of the protester, the title or position of the person submitting the protest, and a statement that the protest has been authorized by the protester and the protest is made in good faith.
 - iii. A statement of all facts alleged and all rules, regulations, statutes, or constitutional provisions that entitles the protester to relief.
 - iv. All other information, documents, materials, legal authority, and evidence in support of the protest.
 - v. A statement indicating the precise relief sought by the protester.
- c. The Purchasing Director / Chief Financial Officer will make a written decision on the protest within ten business days after it is received.
- d. The Protester may appeal the Purchasing Director / Chief Financial Officer's decision to the Executive Director. Any appeal must be filed with the Executive Director within three business days after the protester receives the Purchasing Director / Chief Financial Officer's decision.
- e. The Executive Director may hear the appeal or appoint an independent hearing officer to do so. If a hearing officer is appointed, the hearing officer shall conduct an informal hearing on the appeal within 10 business days from receipt of the appeal. The hearing officer shall promptly prepare an informal decision and recommendation on the appeal for the Executive Director's consideration. The hearing officer shall promptly serve the recommendation on the protester.
- f. Upon receipt of the hearing officer's recommendation, or if no hearing officer is appointed, the Executive Director shall decide any protest for a solicitation valued at less than \$50,000. For solicitations valued less than \$50,000 or sustained protests, the Executive Director's decision is final. For solicitations valued over \$50,000 and the Executive Director is recommending denial of the protest, the Executive Director shall make a recommendation to the Board, and the Board shall make the final decision regarding award of the contract.
- g. Notice of the Board's final decision must be furnished to the protesting party, in writing, by the Purchasing Director / Chief Financial Officer.

10. **Special Provisions.** Wherever special provisions are written into the Special Provisions and Specifications (Section Two), which are in conflict with conditions stated in these Instructions to Offerors, the provisions stated in the Special Provisions and Specifications, shall take precedence.
11. **Conduct.** All submissions and Offeror conduct must comply with applicable PMGAA policies, rules and procedures. Direct contact with PMGAA Board of Directors and/or PMGAA representatives or staff other than as specified in this solicitation, on any subject related to this solicitation is expressly prohibited except with the prior knowledge and written permission of the Procurement Officer listed above. Unauthorized contact of any PMGAA Board of Directors, and/or PMGAA staff or representatives may be cause for rejection of proposals.
12. **Title VI Solicitation Notice.** The Phoenix Mesa Gateway Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no business will be discriminated against on the grounds of race, color, or national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.
13. **Debarment/Suspended.** By submitting a proposal, Offeror certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this solicitation by any Federal department or agency.

B. PROPOSAL PREPARATION AND SUBMITTAL

1. **Proposal Preparation.**
 - a. Forms. All proposals shall include the required forms provided in this solicitation. It is permissible to copy these forms if required.
 - b. No Facsimile or Electronic Mail Responses. Proposals may not be submitted via facsimile or electronically. Facsimiles or electronic mail proposals shall not be considered.
 - c. Confidential, Trade Secret and Proprietary Information. Requests for nondisclosure of information deemed Confidential, Trade Secret, and/or Proprietary must be made in accordance with PMGAA's Procurement Policy. Please review PMGAA's complete "Public Access to Procurement Information" contained in PMGAA's Procurement Policy that is available under the Policies, Documents and Forms link at:
<http://www.gatewayairport.com/policiesdocumentsandforms>.
2. **Proposal Submittal.**
 - a. Submission Package. The specified number of copies of the submittal (see Section Two) should be contained in each submission package. Each submittal package/envelope should be firmly sealed and clearly marked on the outside with the solicitation number, "Request for Proposal" and the name and address of the Offeror.
 - b. Late Submittals. Late submittals will be rejected and returned to the Offeror.
 - c. No Modifications. Modifications are not permitted after proposals have been opened except as otherwise provided under applicable law, such as a specific request by PMGAA for a requested Best and Final Offer (BAFO). All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.

- d. Withdrawal of Proposal. RFP submittals may be withdrawn at any time prior to the specified due date and time. An Offeror (or authorized representative) may withdraw the response by notifying the designated contact for this solicitation in writing on company letterhead. Facsimiles or other electronic withdrawals shall not be considered.

3. **RFP Evaluation.**

- a. Conformance to RFP. Each proposal received will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP and to ensure that the submittal is fully responsive to the specifications listed.
- b. Disqualification. An Offeror who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity will have its response rejected.
- c. Clarifications. PMGAA reserves the right to obtain Offeror clarifications where necessary to arrive at full and complete understanding of Offeror's response. Clarification means a communication with an Offeror for the sole purpose of eliminating ambiguities in the proposal and does not give Offeror an opportunity to revise or modify its submittal.
- d. Response Rejection. Except as provided in Attachment H with respect to specific requests related to the Sample Terminal Concession Lease Agreement, submission of additional terms, conditions and/or agreements with the proposal response may result in rejection. Inclusion of general or vague statements or invitations to discuss further with the proposal response Attachment H may result in rejection.

4. **Award of Contract.**

- a. Rights of PMGAA. PMGAA reserves the right to award to whichever Offeror(s) deemed most advantageous to PMGAA. PMGAA may reject any or all submittals, waive any minor informality or irregularity in submittals received, reject any alternate submittals and reserves the right to reject the submittal(s) of any Offeror who has previously failed to perform competently in any contract with PMGAA.
- b. Selection. The contract shall be awarded using the criteria outlined in Section Two.
- c. Notification and Terminal Concession Lease Agreement. Prior to contract award, the selected successful Offeror(s) will be notified of their apparent selection for contract award. All Standard Terms and Conditions, as stated in Section Three of this RFP, will be included in the Terminal Concession Lease Agreement. If the Terminal Concession Lease Agreement is not executed within 30 days from Notice of Intent to Award, PMGAA reserves the right to cancel and award to the next highest ranked Offeror.

Section Two – Special Provisions and Specifications

A. PROJECT DESCRIPTION

Phoenix-Mesa Gateway Airport Authority (“PMGAA”) request proposals from qualified Offerors to provide automated teller machine (“ATM”) service within Airport owned buildings. The goal of the concession operation is to provide efficient, responsive and professionally managed ATM services to satisfy the needs of the traveling public at the Airport, while optimizing annual operating revenues for PMGAA and its ATM service partner.

The anticipated start date of the agreement is December 1, 2023, with an initial term of three (3) years with one two (2)-year extension option, to be executed at the sole discretion of PMGAA.

B. CURRENT ATM LOCATIONS AND TRANSACTIONS

1. Current ATM Locations

Presently there are a total of five (5) ATM machines, four in the passenger terminal (one in baggage claim, one in ticketing, one near gate 5 and one between gates 9 & 10) and one in General Aviation Services (“GAS”). The table below depicts the transaction volume for calendar year 2022 and is provided as a source for estimating activity level. In October 2022 the ATM located in the annex was moved to a location between gates 9 & 10 to accommodate the Terminal Modernization project. Therefore, the transaction details for the Annex location from October – December 2022 show activity at the location between gates 9 & 10.

Locations near gate 5 and between gates 9 & 10 are situated within the post-screening area of the terminal. Accordingly, each Offeror shall be responsible for adhering to all laws, policies, procedures and requirements of the Transportation Security Administration (“TSA”), PMGAA and/or any other applicable government entity to obtain access to this location and any future location positioned beyond security checkpoints.

Please note that January 2022 numbers were reported in totality and not per location. Location numbers for January 2022 are following the trend of the subsequent months.

2. Transactions Summary by Location - CY 2022

Date	Location				
	Baggage Claim	Ticketing	Gates 9 & 10	Gate 5	General Aviation Center
Jan-22	42	45	2	55	5
Feb-22	69	51	6	85	28
Mar-22	61	41	14	87	17
Apr-22	70	38	7	91	11
May-22	65	51	4	71	13
Jun-22	59	44	3	39	12
Jul-22	49	48	3	68	9
Aug-22	42	40	4	61	8
Sep-22	54	41	4	67	10
Oct-22	55	44	6	85	15
Nov-22	65	40	30	71	10

Dec-22	77	48	52	65	11
Jan-23	74	50	32	69	18
Total	782	581	167	914	167

C. GATEWAY AVIATION SERVICES OPPORTUNITY

Gateway Aviation Services (GAS) is the exclusive Fixed Base Operator (FBO) at the Airport. GAS offers service for all facets of corporate, military, and general aviation aircraft.

This RFP includes a separate, Add Alternate opportunity for the selected Offeror to have an ATM location in GAS. Offerors may or may not include this option in their proposal.

D. MINIMUM REQUIREMENTS

Each Offeror must demonstrate in its proposal that it meets the minimum qualifications specified below, or such proposal may be rejected as non-responsive.

In addition, any Offeror who presently contracts or operates under an agreement with PMGAA must be in good standing therewith for its proposal to be considered responsive. For purposes of this RFP, “good standing” refers to compliance with all contractual and/or agreement provisions, including successful, consistent and timely satisfaction of all reporting and financial obligations.

1. Offeror must have and offer access to not less than two (2) national ATM networks (e.g., Cirrus, Plus) and no less than the Visa, MasterCard and American Express debit card networks.
2. Each Offeror shall have a minimum of three (3) consecutive years’ experience operating two (2) or more ATM units simultaneously during and within the last five (5) years.
3. Licensed to do business in the State of Arizona.

E. GUARANTEE INSTRUMENTS

1. Proposal Guarantee

- a. Each proposal must be accompanied by a cashier’s check payable, without condition or restrictive endorsement, to PMGAA in the amount of \$1,000.00 (the “Proposal Guarantee”). The Proposal Guarantee must be submitted in a separate sealed envelope along with the proposal.
- b. Proposal Guarantees of all unsuccessful Offerors shall be returned, without interest, immediately after the concession opportunity has been formally awarded by the PMGAA Board of Directors, or after all proposals are rejected.
- c. The Proposal Guarantee of the successful Offeror shall be returned, without interest, immediately after the successful Offeror has furnished PMGAA with the Performance Guarantee and insurance policies required by the agreement. Should the successful Offeror fail to furnish the required Performance Guarantee or insurance within 30 days of PMGAA Board of Directors’ approval of the agreement; then, the Offeror’s Proposal Guarantee shall be forfeited as liquidated damages.

2. Performance Guarantee

Upon execution of the agreement by PMGAA, the successful Offeror will be required to post and maintain with PMGAA a security deposit, in a form acceptable to PMGAA, in the amount of (two) 2 months Concession fee.

F. SCOPE OF SERVICE

1. Concession Opportunity

This RFP offers the opportunity to finance, install, operate and manage automated teller machines (ATM's) in two locations, with an optional third location, to include the Terminal Baggage Claim, Gate 5, and Gateway Aviation Center. Exhibit 1 details the locations where the ATM's are to be located. Locations may be changed or added during the term of the agreement depending on the growth and demand at the Airport.

- a. Fees. Offerors shall propose, in their submittal, a monthly flat concession fee of at least \$500.00 for year one of the agreement. The concession fee will be adjusted on an annual basis based on Consumer Price Index ("CPI"). Fee proposals that fail to achieve the above minimum concession fee shall be considered non-responsive.
- b. Operational Date. Selected Offerors shall have all ATM machines in place and working no later than December 3, 2023, or three (3) days after the effective date.

2. ATM Unit Requirements

- a. Dimensions. All ATM units to be installed and operated pursuant to this RFP shall be stand-alone units with the maximum allowable dimensions (including signs) specified below:

Maximum Height	Maximum Width	Maximum Depth
84-inches	60-inches	48-inches

- b. Specifications. All ATM units to be employed by Offerors during the agreement term shall:
 - i. Be new, and (if not new) have been recently refurbished so as to appear and operate as a new unit
 - ii. Meet ADA regulations, including approach height/reach requirements and accessibility for those who are visually impaired
 - iii. Not be used to display any advertising media whatsoever (including screen savers)
 - iv. Be front-loading and mounted flush to walls (where possible)
 - v. Be attractive (compatible with surrounding furnishings and décor), functional, user-friendly, resistant to rough usage, modular and possess the ability to incorporate new features and capabilities, as such may be introduced during the agreement term
 - vi. Be equipped with an audible (or silent, if continuously monitored) alarm
 - vii. Possess a color monitor
 - viii. Be capable of being programmed in one (1) additional language other than English
- c. Unit Capabilities. All ATM units shall support cash withdrawals and/or advances and may support additional, electronic-only banking services, including, but not limited to, transfers and deposits. In addition, each ATM unit shall:
 - i. Offer a customer receipt option
 - ii. Have 24-hour customer service available for customers using the ATMs. The telephone number with procedures for reporting problems shall be prominently posted on each unit
 - iii. Be operational and available for use 24-hours daily (including holidays)
 - iv. Be capable of executing transactions using a variety of credit, debit and ATM cards in accordance with SECTION D herein
 - v. Be capable of executing magnetic strip and EMV chip transactions
 - vi. Clearly display all directions necessary to enable customers to operate the unit, as well as a complete list of all ATM transaction fees, surcharges or other fees charged and to whom the fees and/or surcharges apply

- vii. Offer information, either electronically displayed or permanently affixed to the unit, pertinent to obtaining ATM services and/or refunds
- viii. Conduct and process all transactions in United States Currency, using twenty-dollar (\$20.00) bills as the primary denomination for withdrawals with smaller denominations as an option
- ix. Depict a map showing all ATM unit locations at the Airport, as a customer convenience when a specific unit is being serviced or in case of unit malfunction
- d. Maintenance and Service.
 - i. All ATM units shall be routinely serviced to ensure they are properly stocked, cleaned, are in a serviceable condition and possess the latest applicable software editions at all times.
 - ii. All ATM units also shall have system management capabilities for predicting, assisting and reporting maintenance and the need for cash replenishment. Response time to service calls on ATM units and replenishment of funds must be no greater than within four (4) hours of notification. Each ATM unit shall bear, in a plainly visible location, the Offeror's name, ATM unit number, location and a 24-hour toll-free telephone number for inquiries, maintenance issues, customer service issues and complaints.
 - iii. All ATM units must be capable of producing auditable reports supporting self-reporting of transactions by ATM location (See #4 below)

3. Service Standards

- a. All services provided by the Offeror shall be prompt, courteous and efficient at all times. Offeror shall have written procedures for reporting and responding to customer complaints, and shall ensure ATMs are kept clean, free from any graffiti, and screens are not cracked.
- b. PMGAA shall work with the selected Offeror to determine the times and routes for deliveries of supplies to the ATM units so that it will not conflict with Airport passenger or customer traffic, and that adhere to established PMGAA requirements.
- c. The Offeror shall be responsible for the conduct, demeanor and appearance (properly attired and identified) of its officers, agents, employees and representatives.

4. Offeror Improvements

- a. All ATM unit locations defined within this RFP shall be accepted by the successful Offeror in an "as is" condition.
- b. The successful Offeror shall be required to provide, at its own expense, all improvements, fixtures and equipment (the "Improvements") necessary to create, service and operate each specified ATM service location. All such Improvements must comply with PMGAA's requirements and may be installed only with PMGAA's prior written approval.
- c. The Offeror shall be required to submit schematic design drawings, illustrations, ATM unit specification sheets and applicable construction drawings pertinent to ATM unit locations (the latter, if so required by City of Mesa code(s)) of all Improvements for review and written approval by PMGAA before actual construction or equipment installation begins.
- d. Upon the expiration or earlier termination of the agreement, title to all Improvements constructed or installed by the Offeror, less trade fixtures, signs and other personal property, including the ATM units themselves, shall otherwise vest in PMGAA. Further and upon such agreement expiration or earlier termination, the Offeror shall be required, at its sole expense, to restore each ATM unit location to the condition as existed immediately prior to the agreement effective date.

5. Reporting

- a. Successful Offeror must submit the Monthly Transaction Report (Exhibit 2) to PMGAA detailing all transactions per ATM. The report shall be submitted no later than the 20th day of the preceding month.
- b. Successful Offeror must provide within thirty (30) calendar days of the end of each Agreement year, an accounting of all fees and total transactions from the prior agreement year, itemized by month and ATM location.
- c. Successful Offeror must provide quarterly Airport Concession Disadvantaged Business Enterprise reports.

6. Security

- a. As some portions of work under this RFP are located inside the secured area of the Airport, adherence to and familiarity with federal security regulations is essential. Offeror shall be responsible for fulfilling the security requirements described herein and in the sample Terminal Concession Lease Agreement (Exhibit 3).
- a. Secured Area Access – All Offeror's personnel who require unescorted access to the secured area of the Airport, prior to the issuance of an Airport Identification badge, must successfully complete the Security Badge Application and all vetting requirements.
- b. Employee Security Badges – All Offeror's personnel performing work functions under this RFP shall obtain and properly display an Airport security badge. Offeror shall submit a Security Badge Application form to the PMGAA security office for each employee requiring unescorted access, along with the current fee for each badge. Badge fees are identified on the current *Airport Fees, Services and Rental Rates* available via the Airport website at www.gatewayairport.com and are subject to change.
 - i. All fees must be paid to PMGAA by credit card or debit card. Offeror may place a card on file.
 - ii. Airport Security Badge Application forms and instructions are available via the Airport website at www.gatewayairport.com.
 - iv. A training class on aviation security must be successfully completed before individuals are issued a badge. Fees for the security badge include attendance for the necessary training classes. Attendance at the security classes and issuance of the security badge may take two hours per person.
 - v. Additional information, including a "Frequently Asked Questions" is available via the Airport website at www.gatewayairport.com or by contacting the PMGAA Badging Office at (480) 988-7522. The Badging Office is located at 5803 S. Sossaman Road, Mesa AZ 85212.

7. Signage

PMGAA shall be responsible for all signage.

8. Utilities.

PMGAA will only be responsible for providing power outlets to the ATM units in the designated ATM locations shown in Exhibit 1. Standard 120 V outlets are available in each designated ATM location.

G. AIRPORT CONCESSION DISADVANTAGE BUSINESS ENTERPRISE

1. The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, apply to this concession. It is the policy of Phoenix-Mesa Gateway Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All Offerors qualifying under this solicitation are encouraged to submit proposals. Award of this concession will be conditioned upon satisfying the requirements of this proposal specifications.

PMGAA's ACDBE Program is race neutral. PMGAA encourages the use of ACDBEs and other small businesses in the performance of this concession opportunity and, the outreach efforts detailed in Section 2(H), Tab H of this RFP should be directed at both ACDBEs and other small businesses. Offerors should look for direct participation opportunities for ACDBEs and small businesses, in addition to goods and services providers.

PMGAA's ACDBE Program is race neutral and may be viewed on the Airport's website at <https://www.gatewayairport.com/procurementsandnotices>

2. In order to be counted toward PMGAA's overall ACDBE goal, a business must be certified as an ACDBE at time of award by a certifying agency within the Arizona Unified Certification Program (UCP). The Arizona Department of Transportation UCP ACDBE directory is provided as a service to those who are in search of Certified ACDBE firms. It may be used as a guide to help select certified ACDBEs. The directory can be found at: <https://utracs.azdot.gov>.
3. Determination of Responsiveness to ACDBE Requirements. Offerors shall provide all required ACDBE validating information, as listed in this RFP, at the time of proposal submittal. Failure to submit the ACDBE program documentation, in completed form, may result in a determination by PMGAA that the Offeror is non-responsive to the RFP requirements. The actions taken to meet the outreach requirements must be substantiated by written documentation and proof. A declaration that outreach efforts were made will not be sufficient to meet the burden of proof required. PMGAA's decision as to whether or not outreach efforts have been made is final and conclusive.
4. Offeror shall agree to submit reports as detailed in the sample Terminal Concession Lease Agreement (Exhibit 3).

H. SUBMITTAL INFORMATION AND REQUIREMENTS

Offerors interested in responding to this solicitation should submit a Proposal to address the RFP criteria as specified. In addition, the following requirements apply:

1. Submit four (4) copies of the Proposal.
2. Submit (1) complete electronic copy of the Proposal and all attachments on a flash drive or CD.
3. Submit the Proposal in a sealed envelope with the solicitation number and the Offeror's name and address clearly indicated on the envelope.
4. Organize the Proposal into the sections listed below. Each section should be delineated by a divider with a tab labeled appropriately.
5. Proposals should be sturdily bound.
6. All sheets should be letter size (8½"×11") and must have a page number. This Proposal may not exceed twenty-five (25) single-sided pages. Submissions exceeding the page limit may be considered non-responsive and may be returned to the Offeror without further evaluation. Pages having photos, charts, and/or graphs that provide additional evaluation information will be counted towards the maximum number of pages.
7. Proposal is written/typed in black ink.
8. Font size shall be no smaller than 11pt.
9. **Late Submittals will not be accepted.**

Failure to include all information requested may cause such incomplete Proposals to be rejected and not be evaluated or considered in the selection process.

Information included within the Proposal may be used to evaluate your firm as part of any criteria regardless of where that information is found within the Proposal. Information obtained from the Proposal and from any other relevant source may be used in the evaluation and selection process.

The following information is not included in the page limit:

1. Submittal Cover Sheet
2. Tabs
3. Table of Contents
4. General Information under Tab B
5. Attachments A through J
6. DBE Outreach Documentation

Please submit only the Submittal Section. Do not submit a copy of the entire solicitation document. Offeror is to Submit the Following:

Tab A – Table of Contents (with page numbers)

Tab B – General Information (maximum of one page, excluding Attachment A)

1. Cover Letter identifying the full company name of Offeror and a brief introduction of the company as it relates to the requested services.
2. Complete Attachment A

Tab C – Experience and Qualifications

1. Firm's overall service capability as it relates to these services.
2. List and briefly describe at least three (3) comparable clients serviced by your firm within the last five (5) years or currently in progress. Include, at a minimum:
 - a. Project location
 - b. Contract start and end dates
 - c. Number of ATMs operated
3. Offeror's capability and intent to proceed without delay if selected for this work.

Tab D – Design Concept

1. Provide a complete description of the ATMs to be placed into service. Include:
 - a. Color photograph(s)
 - b. Manufacturer's specification sheets
 - c. Type of finish on the ATM
 - d. Listing of features and dimensions

Tab E – Concession Fee

1. Complete Attachment B

Tab F – Management, Operations

1. Provide a description of the management and operations plan to be used in operating the services. Specifically include relevant operational components for ATMs located past security screening checkpoints.
2. Provide a description of the revenue control system to be used at the Airport, including a description of the audit trail; such system shall, at a minimum, permit obtaining a monthly summary of transaction by location.

Tab G – Transition Plan

1. Provide a transition plan, that includes a time schedule, for installing all proposed ATMs and implementing the proposed ATM services.

Tab H – Airport Concession Disadvantaged Business Enterprise (ACDBE)

If Offeror is not a certified ACDBE by the Arizona UCP, Offeror shall submit the following. If Offeror is a certified ACDBE by the Arizona UCP, then it shall be deemed to have met these requirements and no submittal information for this section is required.

1. Documentation of Outreach Efforts
 - a. Copy of notifications sent to ACDBE firms and small businesses that the Offeror has identified opportunities to participate in the project and is requesting bids/quotes/proposals. This should include the scope of work to be bid/quoted/proposed on and performed on the project.
 - b. Documentation of each ACDBE firm and small business contacted and the response of the ACDBE firms / small businesses or other action taken as a result of the contact. Documentation of contact with ACDBE firms / small businesses may include, fax logs, telephone logs, mail receipts, etc. including documentation of the number of times that firms were contacted, the dates of contact, the name, phone number, fax number, and address of the contact person associated with each ACDBE firm / small business.
 - c. Documentation of responses/quotes from all ACDBEs / small businesses who bid/quoted/proposed to perform work and/or participate on the project in the areas that ACDBE firms / small businesses were also bidding/quoting/proposing on, including information regarding the reasons why ACDBE / small business bids/quotes/proposals were not considered or chosen.
 - d. Any additional documentation Offeror may have that demonstrates outreach efforts were made.
2. Complete Attachment C.
3. For any proposed joint ventures, a draft joint venture operating agreement must be submitted with offeror's proposal.

Tab I - Other

1. List and describe:
 - a. Any litigation, arbitration and/or claims filed by your firm against any project owner as a result of an Agreement dispute
 - b. Any claim filed against your firm
 - c. Termination from a project
2. Complete Attachment J, Project Reference Questionnaire, for the above three (3) comparable projects listed under Tab C and, following instructions on the Attachment, provide the form to the references for completion. The forms should be emailed directly to PMGAA from the references, not from the Offeror. Completed forms received from an Offeror will not be accepted nor made part of an Offeror's submittal. Please note: PMGAA cannot provide a reference for current or past PMGAA projects.

Tab J - Appendices

1. Attachment D, Standard Certifications
2. Attachment E, Authorization for Release of Performance Information and Waiver.
3. Attachment F, Offer Agreement
4. Attachment G, Insurance Requirements & Certificate of Insurability
5. Attachment H, Agreement Review Statement

Tab K – Addenda Acknowledgement (if applicable)

1. Attachment I, Addenda Acknowledgement. If no addenda were issued, Offeror does not need to include this attachment in its proposal.

Separate Envelope inside Offeror's Proposal

1. Proposal Guarantee as detailed in Section Two E

I. EVALUATION CRITERIA

Each submittal shall be evaluated based on the criteria below:

Points	Category
40	Concession Fee
20	Management, Operations, and Transition Plans
15	Experience and Qualifications
15	Design Concept
10	Other
100	Total Score

F. SELECTION PROCESS

1. PMGAA will appoint an evaluation panel to evaluate each Offeror's proposal. Using the criteria and weighting listed herein, the evaluation panel will rank the Offerors in order of highest to lowest score.
2. PMGAA may contact and interview references provided by each Offeror. References will be scored under Other in the Evaluation Criteria.
3. The evaluation panel may, at its sole discretion, select the highest ranked Offeror solely based on the evaluation panel's scoring of the Offerors' proposal and references without interviews or additional submissions.
4. Alternatively, the evaluation panel may, at its sole discretion, create a short list of the top-ranked Offerors and thereafter conduct interviews regarding the project with the short listed, top-ranked Offerors. If interviews are conducted, the evaluation panel will re-score the short-listed Offerors according to the Evaluation Criteria and re-rank the short-listed Offerors in order of highest to lowest score.
5. The evaluation panel may, at its sole discretion, request all or the short listed, top-ranked Offerors to submit Best and Final Offers (BAFO). If BAFOs are solicited, the evaluation panel will re-score all Offerors submitting BAFOs according to the Evaluation Criteria and re-rank the Offerors submitting BAFOs in order of highest to lowest score.
6. Offerors may be evaluated in accordance with the Evaluation Criteria using information obtained by any combination of the following: 1) Proposals and BAFOs submitted in response to this RFP; 2) reference verification; 3) interview performance (if conducted); and 4) any information from any source about the Offeror, whether included in the proposal or not.
7. A notification will be posted on PMGAA's website following a selection determination.
8. PMGAA intends to enter into negotiations with the highest ranked Offeror(s) to finalize a Terminal Concession Lease Agreement for the services. If an agreement cannot be successfully negotiated with the highest ranked Offeror(s), then negotiations may be terminated with that Offeror and PMGAA may enter negotiations with the next highest ranked Offeror until an agreement is reached or an impasse is declared.

Section Three – Standard Terms and Conditions

1. **Certification.** Offeror certifies:
 - a. The award of this Contract did not involve collusion or other anti-competitive practices.
 - b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, or A.R.S. Section 31-1461, et. seq.
 - c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; and Offeror hereby certifies that the individual signing this Contract is an authorized agent for Offeror and has the authority to bind the Offeror to the Contract.
2. **Not Used.**
3. **Dispute Resolution.**
 - a. **Negotiations.** If a dispute arises out of or relates to this Contract or its breach, the parties to this Contract shall endeavor to settle the dispute through direct discussions as a condition precedent to mediation or binding dispute resolution.
 - b. **Mediation.** Should the parties to this Contract be unable to resolve their dispute through direct negotiations, the parties to this Contract, upon the written request of either, shall engage in mediation, to be administered privately by a mediator and according to rules mutually agreed upon by the parties to this Contract, or, the absence of such mutual agreement, by a mediator appointed by JAMS and administered by JAMS in accordance with its then-current mediation rules. The fees and costs of mediation shall be split equally by the parties to this Contract, but subject to reallocation following binding dispute resolution.
 - c. **Binding Dispute Resolution.** Should the parties to this Contract be unable to resolve their dispute through direct negotiations or mediation, either party may, within the time limitations for bringing claims under Arizona law and this Contract, commence formal dispute resolution proceedings. Both parties to this Contract consent to binding arbitration administered by JAMS according to its then current arbitration rules, provided, however, that (i) in the event both parties agree, the arbitration may be administered privately by an arbitrator and according to rules mutually agreed upon by the parties to this Contract, and (ii) in the event any party seeks relief against the other party or against a non-party which cannot fully be granted in arbitration, by reason of non-joinder or otherwise, the parties to this Contract are excused from this arbitration requirement and the parties to this Contract shall proceed in the state or federal courts of competent jurisdiction and located in Maricopa County, Arizona. In any arbitration or litigation, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs as determined by the arbitrator or court as applicable.
4. **Independent Contractor.** At all times, each party acts in its individual capacity not as agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party may not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. Neither Offeror nor any of its employees are entitled to compensation from PMGAA in the form of salaries, paid vacation, or sick days. PMGAA will not provide any insurance to Offeror, including *Workers' Compensation* coverage. PMGAA will not withhold FICA, taxes, or any similar deductions from PMGAA's payments under this Contract.
5. **Affirmative Action.** Offeror shall abide by all the federal and state of Arizona provisions for equal opportunity in the workplace.
6. **Human Relations.** Offeror shall abide by all the federal and state of Arizona provisions against discrimination of disadvantaged business enterprises in applicable PMGAA contracts.
7. **Not Used.**

8. **Americans with Disabilities Act.** Offeror shall comply with all applicable provisions of the *Americans with Disabilities Act* (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the *Act*.
9. **Confidentiality of Records.** Offeror shall establish and maintain procedures and controls that are acceptable to PMGAA for the purpose of assuring that no information contained in its records or obtained from PMGAA or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under this Contract. Persons requesting such information should be referred to PMGAA. Offeror also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Offeror as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by PMGAA.
10. **Gratuities.** PMGAA may, by written notice to the Offeror, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Offeror or any agent or representative of Offeror, to any officer or employee of PMGAA involved in the amending, or the making of any determinations with respect to the performing of such Contract. If this Contract is canceled by PMGAA under this provision, PMGAA shall, in addition to any other rights and remedies, repay to the Offeror the amount of the gratuity.
11. **Applicable Law.** This Contract shall be governed by the laws of the state of Arizona, and suits pertaining to this Contract shall be brought only in federal or state courts in the state of Arizona.
12. **Contract.** This Contract is based on and the result of a negotiated Scope of Work and Proposal, Bid or Statement of Qualifications submitted by Offeror under this RFP, IFB or RFQ. The Contract contains the entire agreement between PMGAA and Offeror. No prior oral or written agreements, contracts, proposals, negotiations, purchase orders, or master agreements (in any form) are enforceable between the parties.
13. **Contract Amendments.** This Contract shall be modified only by a written amendment signed by the PMGAA Executive Director or its designee, and persons duly authorized to enter into contracts on behalf of Offeror.
14. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.
15. **Severability.** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract, which may remain in effect without the valid provision, or application.
16. **Protection of Government Property.** Offeror shall use reasonable care to avoid damaging all PMGAA property, including buildings, equipment, and vegetation (such as trees, shrubs, and grass). If Offeror damages PMGAA's property in any way, Offeror shall immediately report such damage to PMGAA and repair or replace the damage at no cost to PMGAA, as directed by the PMGAA Executive Director. If Offeror fails or refuses to repair or replace the damage, then PMGAA may terminate the Contract, and PMGAA shall deduct the repair or replacement cost from money due Offeror under the Contract.
17. **Interpretation – Parol Evidence.** This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms thereof. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.
18. **Subcontracts.** Offeror shall not assign any rights or interest nor enter into any subcontract with any other party to furnish any of the materials, goods or services specified herein without the prior written permission of PMGAA. PMGAA may, at its sole discretion, accept or reject proposed subcontractors or assignment. PMGAA shall notify Offeror of its acceptance or rejection within forty-five (45) days of written request by Offeror. All subcontracts shall comply with federal and state laws and regulations applicable to the materials, goods or services covered by the subcontract and shall include all the terms and conditions set forth herein,

which shall apply with equal force to the subcontract, as if the subcontractor were the Offeror referred to herein. Offeror is responsible for Contract performance whether subcontractors are used.

19. **No Waiver.** No provision in this Contract shall be construed, expressly or by implication, to waive either party's existing or future claim, right, or remedy available by law for breach of contract. The failure of either party to insist on strict performance of any Contract term or condition; to exercise or delay exercising any right or remedy provided in the Contract or by law; or to accept materials, services, or Offeror's services under this Contract or imposed by law, shall not be deemed a waiver of any right of either party to insist upon strict performance of the Contract.
20. **Warranties.** Offeror warrants that all materials and services delivered under this Contract shall conform to the specifications thereof. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by PMGAA, shall not alter or affect the obligations of Offeror or the rights of PMGAA under the foregoing warranties. Additional warranty requirements may be set forth in this Contract.
21. **Indemnification.** To the fullest extent permitted by law, Offeror shall defend, save, indemnify, and hold harmless PMGAA, its agents, representatives, officers, directors, officials, and employees (collectively the "Indemnitees"), for, from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the Offeror's acts, errors, omissions, or mistakes relating to Offeror's services under this Contract.
22. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. If a demand is made and no written assurance is given within five (5) business days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.
23. **Advertising.** Offeror shall not advertise or publish information concerning this Contract without prior written consent of PMGAA.
24. **Right to Inspect.** PMGAA may, at reasonable times, and at PMGAA's expense, inspect the place of Offeror's or any of Offeror's subcontractor's business, which is related to the performance of this Contract or related subcontract.
25. **Force Majeure.** In the event either party shall be delayed or hindered in or prevented from the performance of any covenant, agreement, work, service, or other act required under this Contract to be performed by such party ("Required Act"), and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, martial law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God ("Force Majeure Event"), then the performance of such Required Act shall be excused for the period of delay and the time period for performance of the Required Act shall be extended by the same number of days in the period of delay. For purposes of this Contract, the financial inability of Offeror to perform any Required Act, including, without limitation, failure to obtain adequate or other financing shall not be deemed to constitute a Force Majeure Event. A Force Majeure Event shall not be deemed to commence until ten (10) days before the date on which the party who asserts some right, defense, or remedy arising from or based upon such Force Majeure Event gives written notice thereof to the other party. If abnormal adverse weather conditions are the basis for a claim for an extension of time due to a Force Majeure Event, the written notice shall be accompanied by data substantiating (a) that the weather conditions were abnormal for the time and could not have been reasonably anticipated and (b) that the weather conditions complained of had a significant adverse effect on the performance of a Required Act. To establish the extent of any delay to the performance of a Required Act due to abnormal adverse weather, a comparison will be made of the weather for the time of performance of the Required Act with the average of the preceding ten (10) years' climatic range based on the National Weather Service statistics for the nearest weather reporting station to the Premises. No extension of time for or excuse for a delay in the performance of a Required Act will be granted for rain, snow, wind, cold temperatures, flood, or other natural phenomena of normal intensity for the locality where the Premises are located.
26. **Inspection.** All material or service is subject to final inspection and acceptance by PMGAA. Material or service failing to conform to the specifications of this Contract will be held at Offeror's risk and may be

returned to Offeror. If so returned, all costs are the responsibility of Offeror. Noncompliance shall conform to the cancellation clause set forth in this Contract.

27. **Exclusive Possession.** All services, information, computer program elements, reports, and other deliverables, which may be created under this Contract, are the sole property of PMGAA and shall not be used or released by Offeror or any other person except with prior written permission by PMGAA.
28. **Title and Risk of Loss.** The title and risk of loss of materials or services shall not pass to PMGAA until PMGAA actually receives the material or service at the Airport, unless otherwise provided within this Contract.
29. **Liens.** All materials, services, and other deliverables supplied to PMGAA under this Contract must be free of all liens and other encumbrances. Upon request of PMGAA, Offeror shall provide a formal release of all liens.
30. **Licenses.** Offeror shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by Offeror as applicable to this Contract.
31. **Subsequent Employment.** PMGAA may cancel this Contract without penalty or further obligation in accordance with A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the contract, on behalf of PMGAA is or becomes, at any time while the Contract or any extension of the contract is in effect, an employee of, or a contractor to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when the parties to this Contract receive written notice from PMGAA, unless the notice specifies a later time.
32. **Clean Up.** Offeror shall at all times keep Contract performance areas, including storage areas used by the Offeror, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of PMGAA. Upon completion of any repair, Offeror shall leave the work and premises in clean, neat, and workmanlike condition.
33. **Patents.** Offeror shall defend, indemnify, and hold harmless PMGAA, its officers and employees from all liabilities, claims, damages, costs, or expenses, including, but not limited to attorneys' fees, for any alleged infringement of any person's patent rights or copyrights in consequence of the use by PMGAA, its officers, employees, agents, and other duly authorized representatives of tangible or intellectual property supplied to PMGAA by Offeror under this Contract.
34. **Records and Audit Rights.** Offeror's and all of its approved subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Contract, including the papers of all Offeror and subcontractor employees that work on the Contract (all the foregoing collectively referred to as "Records"), must be open to inspection and subject to audit and/or reproduction during normal working hours by PMGAA. PMGAA is entitled to evaluate and verify all invoices, payments or claims based on Offeror's and its subcontractor's actual costs (including direct and indirect costs and overhead allocations) incurred or units expended directly in the performance of work under this Contract. For any audit under this Section, Offeror and its subcontractors hereby waive the right to keep such Records confidential. PMGAA is entitled to access to these Records from the effective date of this Contract for the duration of the work and until five years after the date of final payment by PMGAA to Offeror under the Contract. During normal working hours, PMGAA is entitled to access to all necessary Offeror and subcontractor facilities and shall be provided adequate and appropriate workspace, in order to conduct audits under this Section. PMGAA shall give Offeror or subcontractors reasonable advance notice of intended audits. Offeror shall require its subcontractors to comply with the provisions of this Section by including its requirements in all subcontracts related to this Contract.
35. **E-Verify Requirements.** To the extent applicable under A.R.S. § 41-4401, Offeror and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees, and compliance with the E-Verify requirements under A.R.S. §23-214(A). Offeror's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Contract and may result in the termination of this Contract by PMGAA. PMGAA shall have the right to inspect the papers of Offeror's and

any of Offeror's subcontractor's employee who works on this Contract to ensure the Offeror is complying with this paragraph.

Attachment A
Offeror's Identification Statement

Provide the following information regarding the Offeror:

Note: Co-Offerors are two or more entities proposing as a team or joint venture with each signing the contract, if awarded. Sub-contractors or Operators are not Co-Offerors and should not be identified here. If this proposal includes Co-Offerors, provide the required information in Item #1 for each Co-Offeror by copying and inserting an additional sheet before Item #2)

1. Offeror Name: _____
(Give exact legal name as it will appear on the contract, if awarded.)

Principal Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No. _____ Fax No: _____

Website address: _____ Year established: _____

Provide the number of years in business under present name: _____

Social Security Number or Federal Employer Identification Number: _____

DUNS NUMBER: _____

Business Structure: Check the box that indicates the business structure of the Offeror.

- ☐ Individual or Sole Proprietorship If checked, list Assumed Name, if any: _____
☐ Partnership
☐ Corporation If checked, check one ☐ For-Profit ☐ Nonprofit
☐ Domestic ☐ Foreign
☐ Limited Liability Company
☐ Joint Venture
☐ Other If checked, list business structure _____

If the Offeror is a Corporation or Limited Liability Company, attach a copy of the Offeror's Certificate of Good Standing from the State of Arizona (or state of formation), and answer the following:

- a. When incorporated/formed (MM/YY) _____
b. In what state/country _____

If the Offeror is a Partnership or Joint Venture, attach an executed copy of the Partnership Agreement or Joint Venture Agreement, and answer the following:

- a. Name, address, and share of each partner of the Joint Venture or Partnership

<u>Name</u>	<u>Address</u>	<u>Share</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Date of Organization (MM/YY)_____

c. General of Limited Partnership (if applicable) _____

d. State of Formation _____

Offeror is certified: ____ ACDBE ____ DBE

Provide any other names under which Offeror has operated within the last 10 years and length of time under for each:

Provide address of office from which this project would be managed:

Address:_____

City: _____State: _____Zip Code: _____

Telephone No. _____ Fax No: _____

Annual Revenue: \$ _____

Total Number of Employees: _____

List Any Related Companies:

2. Does Offeror anticipate any mergers, transfer of organization ownership, management reorganization, or departure of key personnel within the next twelve (12) months?

___ Yes ___ No

3. Is Offeror authorized and/or licensed to do business in Arizona?

___ Yes ___ No If "Yes," list authorizations/licenses.

4. Where is the Offeror's corporate headquarters located?_____

5. Debarment/Suspension Information: Has the Offeror or any of its principals been debarred or suspended from contracting with any public entity?

___ Yes ___ No

If "Yes," identify the public entity and the name and current phone number of a representative of the public entity familiar with the debarment or suspension and state the reason for or circumstances surrounding the debarment or suspension, including but not limited to the period of time for such debarment or suspension.

6. Surety Information: Has the Offeror ever had a bond or surety canceled or forfeited?

___ Yes ___ No If "Yes", state the name of the bonding company, date, amount of bond and reason for such cancellation or forfeiture.

7. Bankruptcy Information: Has the Offeror ever been declared bankrupt or filed for protection from creditors under state or federal proceedings?

___ Yes ___ No If "Yes", state the date, court, jurisdiction, cause number, amount of liabilities and amount of assets.

8. Previous Contracts:

- a. Has the Offeror ever failed to complete any contract awarded?

___ Yes ___ No If "Yes", state the name of the organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

- b. Has any officer or partner proposed for this assignment ever been an officer or partner of some other organization that failed to complete a contract?

c.

___ Yes ___ No If "Yes", state the name of the individual, organization contracted with, services contracted, date, contract amount and reason for failing to complete the contract.

9. Are there any pending liens, claims or litigation involving Offeror?

___ Yes ___ No If "Yes," provide detailed information on a separate sheet attached hereto.

- 10.. Has the Offeror been involved in any lawsuits in the past 5 years?

___ Yes ___ No If "Yes," provide a list on a separate sheet attached hereto.

Attachment B

Proposed Concession Fee

The fee stated herein by Offeror shall be paid to PMGAA on a monthly basis.

Concession Fee shall be increased on an annual basis by a percentage equal to the percentage that the Consumer Price Index (CPI) increased during the immediately preceding twelve (12) month period.

Minimum monthly flat Concession Fee for year one under this solicitation is \$500.00

Year One Monthly Concession Fee for (**select one option only**):

☐ Two ATM locations, Terminal Baggage Claim and Gate 5: \$ _____

☐ Three ATM locations, Terminal Baggage Claim, Gate 5, and Gateway Aviation Center: \$ _____
(This option includes the Add Alternate GAS option)

Exceptions / Clarifications:

Proposal Certification

By Offeror's signature, Offeror certifies that Offeror is authorized to bind this firm/individual to provide the services accepted herein, in compliance with the Scope of Services, technical specifications and other terms and conditions in this Request for Proposal at the price provided in this Attachment B.

Printed Name

Signature

Attachment C

Proposed ACDBE and Small Business Participation

To be completed by the Offeror for ACDBE / Small Business participation – if none, state “NONE” in the first field in the table below
Offerors must submit outreach documentation in addition to this Attachment C even if no participation by ACDBEs / SBEs is obtained

Name of Offeror _____

ATM Concessions at Phoenix Mesa Gateway Airport Authority

ACDBE/SMALL BUSINESS FIRM NAME	ADDRESS/PHONE	NAICS CODE(S) FIRM IS CERTIFIED TO PERFORM PER AZ UCP	DESCRIPTION OF SCOPE OF WORK TO BE PERFORMED UNDER THIS PROJECT	NAICS CODE(S) FOR SCOPE OF WORK TO BE PERFORMED UNDER THIS PROJECT BY FIRM	Firm is an ACDBE (Y/N)	Firm is an SBE (Y/N)

Signed By: _____

Title: _____

Date: _____

Attachment D

Standard Certifications

Complete Attachment D by checking the applicable box(s) and/or providing responses. Failure to complete this Attachment D in its entirety and submit with Offeror's proposal will result in Offeror's submittal being deemed nonresponsive and not evaluated.

If Offeror cannot affirmatively certify to statement numbers 1 and 2 below, Offeror's submittal will be rejected and will not be evaluated.

1. Offeror hereby ☐ certifies ☐ does not certify
That this engagement, if selected, will not result in a conflict of interest.

2. Offeror hereby ☐ certifies ☐ does not certify
That the firm, and proposed team members, meet the Minimum Requirements/Qualifications as stated in Section Two D, of this RFP.

If Offeror cannot affirmatively certify to statement number 3 below, PMGAA will consider Offeror's written response to determine if it's submittal will be accepted and be evaluated.

3. Offeror hereby ☐ certifies ☐ does not certify
That it has no known business or financial relationships between Offeror or Offeror's firm and members of the PMGAA Board.

If Offeror does have known business or financial relationships, please list them below:

By signature below, Offeror certifies that the information in this Attachment is true, and accurate.

By: _____
Signature

Printed Name/Title

Company Name

Date

Attachment E

Authorization for Release of Performance Information and Waiver

The purpose of this disclosure is to provide references to PMGAA. Offeror hereby consents that as an Offeror to PMGAA's Solicitation 2023-020-RFP, Automatic Terminal Services for Phoenix-Mesa Gateway Airport, Offeror authorizes those companies and government entities listed in Offeror's RFP submittal and any other government entity for whom this company has performed Automated Teller Machine Services ("ATM")], to disclose and release to PMGAA, or their representatives, information, records and opinions concerning this company's past performance.

_____ (Offeror) hereby waives any claim it may have against PMGAA or any company or entity providing information to PMGAA by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one (1) year.

This consent or copy of this authorization shall be as valid and effective as the original.

Signature of Offeror

Date

Attachment F

Offer Agreement

The Offeror hereby offers and agrees to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposal and Terminal Concession Lease Agreement, Exhibit 3.

Company Name: _____

Federal Tax Identification Number: _____

Sales Tax Identification Number: _____

Signature

Date

Printed Name

Title

Attachment G

Insurance Requirements and Certificate of Insurability

During the term of this Contract, Offeror shall maintain in full force at its own expense, each insurance noted below normally associated with the goods and materials and/or services covered by this Contract:

GENERAL LIABILITY

☒ Required by PMGAA

☐ Not required by PMGAA

General liability insurance with limits no less than **\$1,000,000** per occurrence and **\$2,000,000** general aggregate for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. Any supplementary payments, including defense costs, shall be in addition to the policy limits. It shall provide that the Phoenix-Mesa Gateway Airport Authority, its agents, officials, officers and employees are Additional Insureds but only with respect to the Offeror's services to be provided under this Contract.

AUTOMOBILE LIABILITY

☒ Required by PMGAA

☐ Not required by PMGAA

Automobile liability insurance with a combined single limit, or the equivalent, of not less than

☐ \$200,000

☐ \$500,000

☒ \$1,000,000

☐ \$2,000,000

for each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable. Proof of coverage may be required. All vehicles used by Offeror on PMGAA property shall carry appropriate proof of insurance.

PROFESSIONAL LIABILITY

☐ Required by PMGAA

☒ Not required by PMGAA

Professional liability insurance with a combined single limit, or the equivalent, of not less than

☐ \$200,000

☐ \$500,000

☐ \$1,000,000

☐ \$5,000,000

for each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. Only a certificate is required.

WORKERS' COMPENSATION

☒ Required by PMGAA

☐ Not required by PMGAA

The Offeror shall maintain Workers' Compensation insurance with statutory limits as required by the State of Arizona and Employer's Liability insurance in the amount of *One Million Dollars (\$1,000,000)*. The policy shall contain a waiver of subrogation in favor of PMGAA.

PROPERTY (ALL RISK)

☒ Required by PMGAA

☐ Not required by PMGAA

For the value of personal property and improvements to the ATM Locations for their full insurable value on a replacement cost basis.

CERTIFICATES OF INSURANCE AND ENDORSEMENTS.

Check one or both if insurance is required: ☒ Certificate Required
☒ Endorsement Required

As evidence of the insurance coverages required by this Contract, the Offeror shall furnish acceptable insurance certificates and endorsements to PMGAA prior to commencement of any work under this Contract. For work performed under this Contract, the insuring company's certificates and endorsements shall be endorsed to include the following additional insured language: "The Phoenix-Mesa Gateway Airport Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of Offeror." If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to PMGAA. The Offeror shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

NOTICE OF CANCELLATION OR CHANGE.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days' written notice from the Offeror or its insurer(s) to PMGAA.

Attachment G (continued)

Offeror hereby certifies that as an Offeror to PMGAA's Solicitation 2023-020-RFP for Automated Teller Services for Phoenix-Mesa Gateway Airport, Offeror is fully aware of Insurance Requirements as specified in this Attachment G as well as those contained in the sample Terminal Concession Lease Agreement (Exhibit 3) and by the submission of this RFP submittal, Offeror hereby assures PMGAA that Offeror is able to produce the insurance coverage required should Offeror be selected to be awarded the Terminal Concession Lease Agreement.

Should Offeror be awarded the Terminal Concession Lease Agreement by PMGAA, and then become unable to produce the insurance coverage specified within ten working days, Offeror is fully aware and understand that PMGAA may not consider Offeror for this and future projects.

Signature of Offeror

Date

Attachment H

Agreement Review Statement

As an Offeror to PMGAA's Solicitation 2023-020-RFP, Automated Teller Machine Services], Offeror hereby certifies that Offeror has reviewed the PMGAA sample Terminal Concession Lease Agreement (Exhibit 3) and Section Three, Standard Terms and Conditions to be attached to the Terminal Concession Lease Agreement and have listed any objections to them below. The response shall clearly identify if the attached sample Terminal Concession Lease Agreement is acceptable in all respects. If the Agreement is not acceptable, the response shall identify the unacceptable clauses and shall provide suggested alternate language. General or vague statements or invitations to discuss further are not adequate answers.

Offeror is aware any objections to the sample Terminal Concession Lease Agreement (or to Section Three, Standard Terms and Conditions) will be considered and included in PMGAA's evaluation of my firm's qualifications. Offeror is also aware, if Offeror fails to list any objections to PMGAA's sample Terminal Concession Lease Agreement, including the Standard Terms and Conditions, Offeror will not be allowed to raise any objections later if selected as the most qualified Offeror.

Signature of Offeror

Date

Specific Objections:

Attachment I

Addenda Acknowledgement

Offeror is responsible for obtaining all addenda, if issued, via the PMGAA website at www.gatewayairport.com under the Business | Procurements, Vendors & Public Notices section or by other means (see Section One, Subsection A, paragraph 2, Addenda).

Failure to acknowledge, and include this form in Offeror's submittal, may cause Offeror's proposal to be deemed nonresponsive. If no addenda were issued, Offeror does not need to include this attachment in its proposal.

Offeror hereby acknowledges receipt of the following addenda issued by PMGAA for solicitation 2023-020-RFP (fill in Addendum Number and Date Issued).

Addendum No. _____ Date Issued: _____

Addendum No. _____ Date Issued: _____

Addendum No. _____ Date Issued: _____

Addendum No. _____ Date Issued: _____

Addendum No. _____ Date Issued: _____

By: _____
Signature

Date

Printed Name

Title

Attachment J
Project Reference Questionnaire
References should correspond to the three listed under Tab C, #2

Offerors: Complete the top section of this questionnaire and supply to each of your references to complete.

Past Performance Survey of:

(Name of Offeror): _____

(Name of Project Manager(s): _____

Instructions: References will complete the following section about the Offeror and return this form directly to Phoenix Mesa Gateway Airport. Please email the completed form to Marian Whilden at mwhilden@gatewayairport.com no later than June 29, 2023. Thank you for your time and effort in assisting the Airport in this important endeavor.

The Phoenix Mesa Gateway Airport is collecting past performance information on firms and their key personnel. The information will be used to assist the Airport in the selection of a firm for ATM Services.

The firm listed above has listed you as a client for which they have previously performed work for. We would appreciate you taking the time to complete this survey.

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge in a particular area, please leave it blank.

Reference Firm Name: _____ Date/Year of Project: _____

Reference Phone: _____ Reference Email: _____

Project Description: _____

NO	CRITERIA	UNIT	RATING
1.	Ability to meet customer expectations	(1-10)	_____
2.	Ability to maintain project schedule (completed on time or early)	(1-10)	_____
3.	Ability to manage project costs (minimal change orders)	(1-10)	_____
4.	Ability to identify and minimize the owner's risk	(1-10)	_____
5.	Ability to increase value	(1-10)	_____
6.	Coordination of activities and documentation	(1-10)	_____
7.	Accessibility and communication	(1-10)	_____
8.	Leadership ability (minimize the need of owner direction)	(1-10)	_____
9.	Your comfort level in hiring the firm/individual again based on performance	(1-10)	_____
10.	Overall customer satisfaction	(1-10)	_____

Comments: _____

Name

Signature

Date

Exhibit 1
ATM Locations

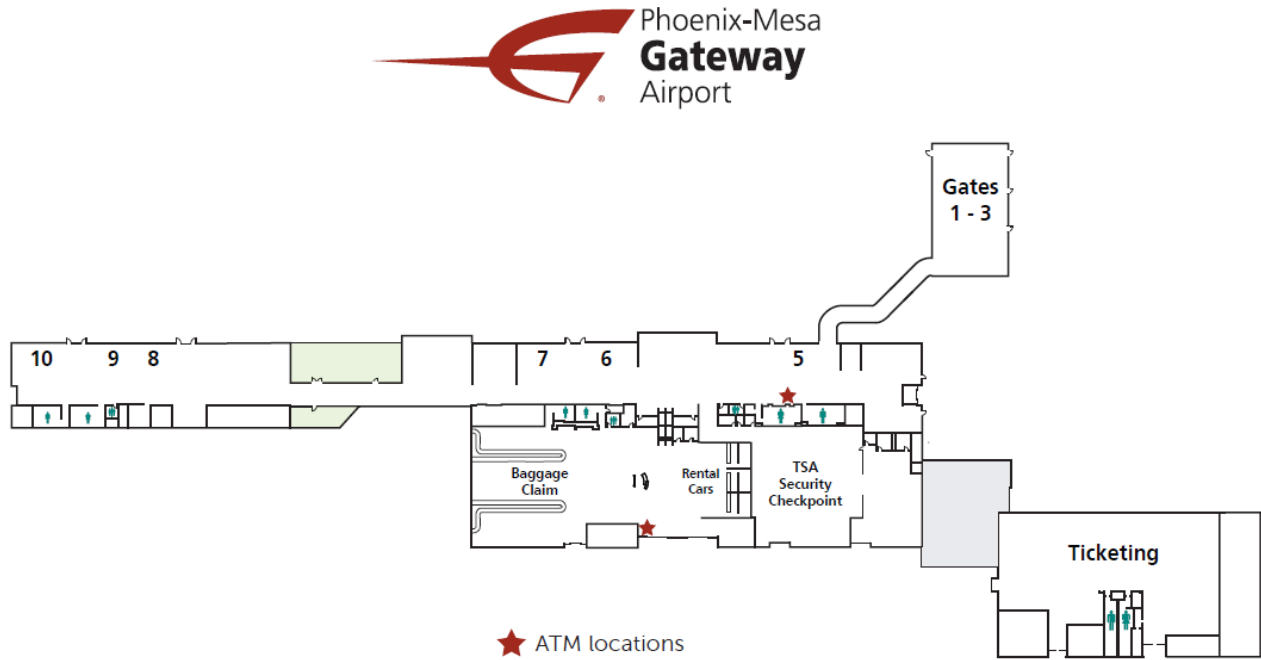


Exhibit 1 (Continued)
Gateway Aviation Services Location (Add Alternate Option)

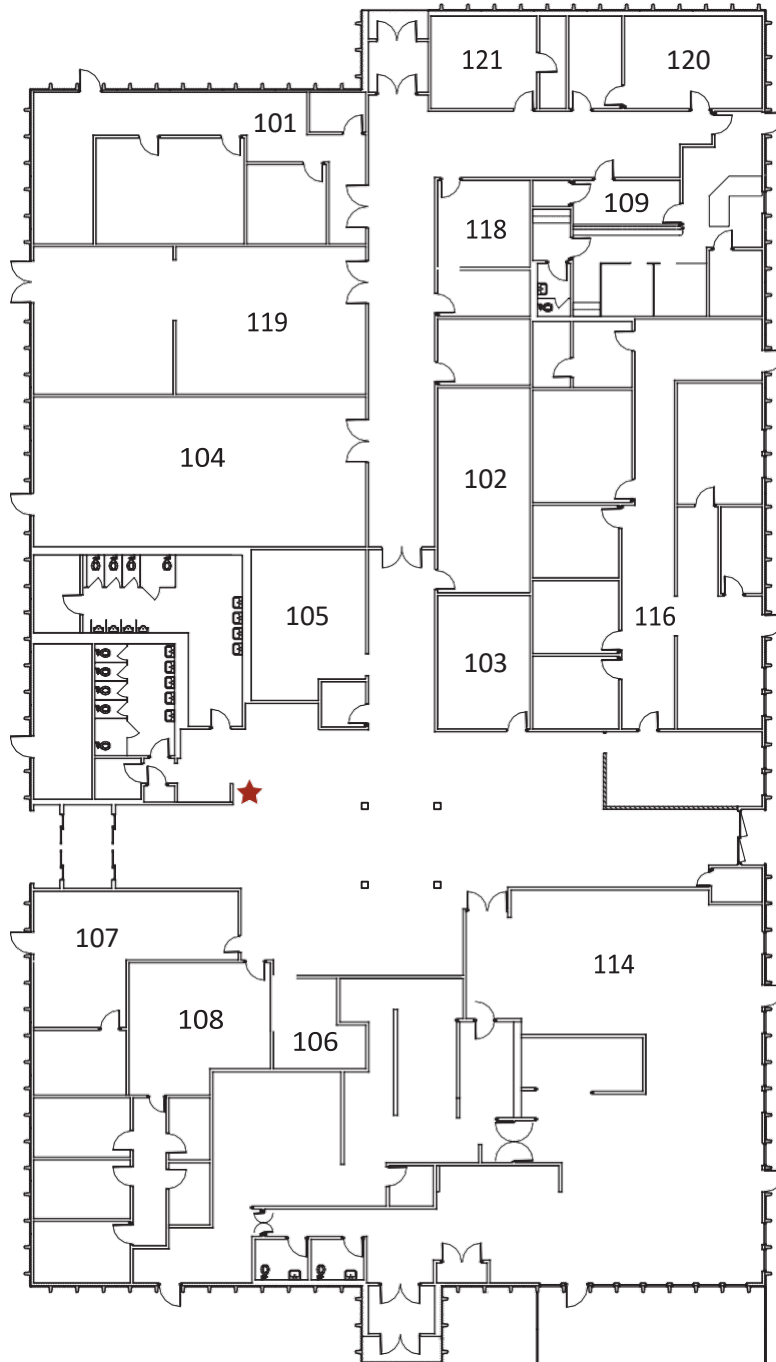


Exhibit 2
Monthly Transaction Report



BUSINESS NAME: _____

Reporting Period: _____ to _____
Date Date

Transactions Location	Transaction Totals
Baggage Claim	
Gate 5	
Gateway Aviation Services	
Total Transactions	

Verified Signature: _____
Name Date

A SIGNATURE IS REQUIRED TO MAKE THIS REPORT VALID

Report is due by the 20th day following the last day of the preceding calendar month

Please make payment payable to:
Phoenix-Mesa Gateway Airport Authority
5835 S. Sossaman Rd.
Mesa, AZ 85212

Exhibit 3
Sample Terminal Concession Lease Agreement



Phoenix-Mesa Gateway Airport Authority

TERMINAL CONCESSION LEASE
AGREEMENT

Automated Teller Machine (ATM) Services

with

<COMPANY NAME>

Effective Date: December 1, 2023

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Phoenix-Mesa Gateway Airport Authority
TERMINAL CONCESSION AGREEMENT
Automated Teller Machine (ATM) Services

This exclusive TERMINAL CONCESSION AGREEMENT (the "Agreement") is made and entered into this FIRST (1st) day of <MONTH & YEAR> (the "Effective Date"), by and between the **PHOENIX-MESA GATEWAY AIRPORT AUTHORITY**, a joint powers authority authorized and existing under the laws of the State of Arizona ("PMGAA"), and <COMPANY NAME>, a/an <State> <type of company> ("Concessionaire"). PMGAA and Concessionaire may be referred to jointly as "Parties," and each separately as a "Party."

WITNESSETH:

WHEREAS, PMGAA is the owner and operator of the Phoenix-Mesa Gateway Airport, an airport and airfield property generally located at the intersection of Ray Road and Sossaman Road, City of Mesa, Maricopa County, Arizona (the "Airport"); and

WHEREAS, PMGAA has the right to lease, license and grant the use of property and facilities on the and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, PMGAA desires Concessionaire's services as the operator of an ATM CONCESSION business at and within the Airport's airline passenger terminal (the "Terminal") and General Aviation (GA) Center, is willing to make space available for use by Concessionaire in connection therewith, and has deemed Concessionaire qualified to perform said services, and Concessionaire desires to perform and provide said services;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the Parties do hereby undertake, promise and agree, each for itself and its successors and assigns, as follows:

1. AGREEMENT.

1.1 General.

1.1.1 PMGAA hereby grants to Concessionaire, for the term and under the conditions herein provided, an exclusive and revocable right to enter upon and use the Airport (pursuant to the provisions of SECTION 12 herein) for the purpose of conducting its business as an ATM SERVICES CONCESSIONAIRE from those certain locations within the Terminal and GA Center identified as <location description(s)> (the "ATM Locations"), as depicted in **Exhibit 1** which is attached hereto and made a part hereof. For purposes of this Agreement, the Terminal is that certain building located at 6033 S. Sossaman Road, Mesa, Arizona, as it presently exists or may subsequently be expanded in the future. The GA Center is that certain building located at 5803 S. Sossaman Road, Mesa, Arizona.

1.1.2 Concessionaire shall not engage in any other commercial revenue producing activity at the Airport that is regulated by PMGAA and is in addition to or materially differs from the activity set forth in SECTION 1.2 without first applying for and receiving written approval for such activity from PMGAA. In the event Concessionaire engages in any such other regulated, commercial revenue producing activity prior to obtaining such written approval, without waiver or limitation of any other remedies of PMGAA at law or equity,

Concessionaire hereby agrees to immediately cease said activity upon notice from PMGAA, and remit to PMGAA the sum equal to 'TWENTY PERCENT' (20%) of gross billings for such unauthorized activity, plus any expenses incurred by PMGAA in the course of any audit conducted for any or all of Concessionaire's activities.

1.2 Concessionaire's Acknowledgement.

1.2.1 Reserved.

1.2.2 Concessionaire acknowledges and agrees that its obligations to pay fees and all other charges due and owing under the terms hereof shall, except as otherwise provided herein, be absolute and unconditional, and shall not be affected by any circumstances whatsoever, including, without limitation: (i) any set-off, counterclaim, recoupment, defense or other right which Concessionaire may have against PMGAA or the United States of America or anyone else for any reason whatsoever; (ii) any liens, encumbrances or rights of others with respect to the ATM Locations; (iii) the invalidity or unenforceability or lack of due authorization or other infirmity of this Agreement or any lack of right, power or authority of PMGAA or Concessionaire to enter into this Agreement; (iv) any insolvency, bankruptcy, reorganization or similar proceedings by or against Concessionaire or any other person; or (v) any other cause, whether similar or dissimilar to the foregoing, any future or present law notwithstanding, it being the intention of the Parties hereto that all fees being payable by Concessionaire hereunder shall continue to be payable in all events and in the manner and at the times provided herein.

1.3 Concessionaire's Rights. So long as Concessionaire shall timely pay the fees and other charges required to be paid and is not in default of any obligation hereunder, and complies fully with the Airport Rules and Regulations, PMGAA hereby grants to Concessionaire the following rights:

1.3.1 An exclusive right to peaceably have and enjoy the use of the ATM Locations to engage in and operate its ATM concession business without hindrance from PMGAA, and to use the ATM Locations while in compliance with the terms and conditions of this Agreement. All other rights granted to Concessionaire under this Agreement are exclusive.

1.3.2 A right of ingress and egress to and from the ATM Locations over Airport roadways, including common use roadways, driveways and public areas of the Airport, subject to any and all applicable rules and regulations established from time to time by PMGAA, the United States government, the State of Arizona, the City of Mesa, or other governmental entity, as applicable. Such rights of ingress and egress shall apply to Concessionaire's employees, guests, patrons, invitees, suppliers and other authorized individuals.

1.3.3 A right to install and maintain appropriate signs as a part of each ATM unit and in proximity to the ATM Locations at Concessionaire's own expense; provided, however, that the design, installation, modification and maintenance of such signs shall be subject to the prior written approval of PMGAA.

1.3.4 A right to obtain supplies and services at the ATM Locations from suppliers, vendors or contractors of its choosing; provided, however, that all contracts entered into by Concessionaire for provision of labor and employment services shall require that personnel engaged by Concessionaire at the ATM Locations shall not be disruptive of other personnel or operations at the Airport and that such personnel shall at all times comply with Airport Rules and Regulations.

1.4 PMGAA's Rights. Throughout the Term of this Agreement, PMGAA shall have the sole right to:

1.4.1 Relocate the ATM Locations allocated to Concessionaire under this Agreement, and endeavoring to provide reasonable replacement space. PMGAA's liability in any such mandated relocation shall be limited to one-half of the net book value of all fixed improvements to the ATM Locations that were made by Concessionaire, and that cannot be reasonably removed and reused by Concessionaire in a replacement space, should such be available, or elsewhere. For purposes of this SECTION 1.4.1, the term "net book value" shall mean the current value of the non-relocatable fixed improvements to the ATM Locations after depreciation, which shall be calculated on a straight-line basis over five (5) years.

1.4.2 Increase the number of ATM unit locations within the Terminal and GA Center required to be operated under this Agreement, and to expect Concessionaire's full cooperation and best efforts to outfit, operate and maintain those added locations within THIRTY (30) calendar days of PMGAA's written request therefor.

1.4.3 Require Concessionaire to close or reduce its operation if PMGAA, at its sole and absolute discretion, determines such closure or reduction is necessary for the efficient operation of the Airport. If PMGAA requires Concessionaire to close its operation, in whole or in part, Concessionaire shall vacate the affected ATM Locations within SIXTY (60) days of receipt of a written closure or reduction notice from PMGAA, unless exigent circumstances require an earlier closure or reduction in the size of Concessionaire's operation. If PMGAA requires a reduction of Concessionaire's ATM Locations, and Concessionaire makes a written request to PMGAA to relocate its operations promptly after receiving notice of reduction, PMGAA will attempt to negotiate a mutually acceptable relocation elsewhere on the Airport. If the Parties cannot agree on such replacement location within THIRTY (30) days of Concessionaire's vacating the original ATM Locations, Concessionaire shall have the right to terminate this Agreement upon THIRTY (30) days advance written notice to PMGAA thereafter.

1.5 Requirements – Initial Occupancy.

1.5.1 Construction and Installation Timing. Beginning on the Effective Date, Concessionaire shall undertake to construct any and all PMGAA approved improvements and install all fixtures, equipment and related items (collectively, the "Improvements") to enable commencement of Concessionaire's business operations, as specified in SECTION 1.1.1 herein, within THREE (3) calendar days of the Effective Date. Construction plans for the Improvements, if any, and any material changes thereto shall be submitted to and approved in writing by PMGAA prior to execution, commencement of construction and/or submission to the City of Mesa for permit (if required).

1.5.2 ATM Unit Specifications. Concessionaire shall, through the Term of this Agreement, ensure that all ATM units installed in the ATM Locations adhere to the following specifications:

1. Are New, and (if not new) have been recently refurbished so as to appear and operate as a new unit.
2. Meet ADA regulations, including approach height/reach requirements and accessibility for those who are visually impaired.
3. Do not display any advertising media whatsoever (including screen savers)
4. Are front loading and mounted flush to walls (where possible)
5. Are attractive, functional, user friendly, resistant to rough usage, modular and possess the ability to incorporate new features and capabilities, as such may be introduced during the Agreement Term.
6. Are equipped with an audible (or silent, if continuously monitored) alarm, or other appropriate mechanism to alert Concessionaire to malfunctions, tampering or servicing needs,
7. Possess or be equipped with a color monitor,
8. Offer the capability of being programmed in one (1) additional language other than English,
9. Have a 24 hour service number with procedure for reporting problems prominently posted on the unit;
10. Depict a map showing all ATM unit locations at the Airport, as a customer convenience when a unit is being serviced or in case of a unit malfunction; and
11. Bear in plainly visible location, the Concessionaire's name, ATM unit number, location and 24-hour toll free number for inquiries, maintenance issues, customer service issues and complaints.

1.5.3 ATM Unit Capabilities. Concessionaire shall, through the Term of this Agreement, ensure that all ATM units installed in the ATM Locations possess the following capabilities:

1. Support cash withdrawals and/or advances and additional, electronic only banking services, including but not limited to account balance inquiries, and transfers;
2. Offer a customer receipt option;
3. Be operational and available for use 24 hours daily (including holidays), but not less than during Terminal operating hours;
4. Be capable of executing transactions using a variety of credit, debit and ATM cards;
5. Display clearly all directions necessary to enable customers to operate the unit including a listing of all ATM transaction fees, surcharges or other fees charged and to whom the fees and/or surcharges apply;
6. Offer information, either electronically displayed or permanently affixed to the unit, pertinent to obtaining ATM services and/or refunds; and
7. Conduct and process all transactions in United States Currency, using twenty dollar (\$20.00) bills as the primary denomination, with options for lower denominations, for withdrawals.

1.5.4 Delivery Schedules – Coordination. Schedules pertinent to the delivery and installation of materials, construction activities and other related work events shall be coordinated in advance with PMGAA no less than FIVE (5) business days prior to their planned action, whenever possible. Concessionaire shall be responsible for ensuring that ongoing commercial airline and other business activities taking place within the Terminal and GA Center during construction and installation of Concessionaire's Improvements are not materially disrupted at any time.

2. **TERM.**

2.1 Initial Term. The term of this Agreement (the "Term") shall commence on the Effective Date and terminate THREE (3) years thereafter, on November 30, 2026, unless sooner terminated as provided herein.

2.2 Renewal Term. Provided Concessionaire is not then in default of this Agreement and subject to approval of PMGAA at PMGAA's sole and absolute discretion, Concessionaire shall have the option of extending the Term for ONE (1) additional period of TWO (2) years (each, individually, an "Extension"). Concessionaire may exercise an Extension by giving written notice to PMGAA of its desire to do so no later than ONE HUNDRED TWENTY (120) days prior to the expiration of the Term, as set forth in SECTION 2.1 herein or subsequently extended. If Concessionaire has properly notified PMGAA of its desire to exercise an Extension and PMGAA approves in writing, then Concessionaire's extension of the Term of this Agreement shall become effective and all references herein to the "Term" shall mean the initial term as extended.

3. **FEES.**

3.1 General. For and in consideration of the privilege and authorization herein granted, Concessionaire shall pay to PMGAA a monthly fee for use of the ATM Locations in the amount of **<AMOUNT>** DOLLARS (\$<##>) (the "Concession Fee") For purposes of this SECTION 3.1, the term "transaction" shall mean each individual banking event or activity conducted at or from one of Concessionaire's ATM units by a single customer without interruption.

3.1.1 Concession Fee Increases. The Concession Fee paid by Concessionaire shall be increased (but never decreased) on every ONE (1) year anniversary of the Effective Date of this Agreement by a percentage equal to the Consumer Price Index (CPI) (as defined below) increased during the immediately preceding TWELVE (12) month period ending Ninety (90) days prior to the end of the adjustment period. For purposes of this Lease, CPI means the United States Department of Labor,

Bureau of Statistics Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average (1982-1984=100). If at any time CPI ceases to exist, Concessionaire may substitute any official index published by the Bureau of Labor Statistics or by a successor or similar government agency as may then exist and which in Concessionaire's reasonable business judgment shall be most nearly equivalent to the CPI.

3.2 Fee Payments.

3.2.1 Concession Fee: Concessionaire shall pay monthly to PMGAA, on or before the FIRST (1st) day following the last day of the preceding calendar month (the "Fee Due Date"), all Concession Fees due hereunder, plus applicable taxes, without any prior demand therefor and without any abatement, deductions or set-offs whatsoever. All payments of fees and charges specified herein shall be tendered in lawful currency of the United States, either by check or electronic transfer, and shall be free from all claims or setoffs of any kind against PMGAA.

3.2.2 Concessionaire shall submit to PMGAA a monthly transaction report (Exhibit 2), itemized by ATM unit detailing the actual number of transactions conducted and certified by an officer of Concessionaire for the preceding month. Said statements shall be due no later than the 20th of the month preceding activity.

3.2.3 No payment to or receipt by PMGAA of a lesser amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way PMGAA's right to recover the balance of such payment or pursue any other remedy provided in this Agreement or by law.

3.2.4 All payments and reports required by this SECTION 3 shall be remitted to the following address by the due date(s) specified hereinabove:

Phoenix-Mesa Gateway Airport Authority
Attn.: Department of Finance (Accounts Receivable)
5835 S. Sossaman Road
Mesa, Arizona 85212-6014

or such other address specified in writing by PMGAA to Concessionaire.

3.3 Finance Charges and Late Penalties.

3.3.1 If PMGAA shall receive any fee payment or portion thereof from Concessionaire after the Fee Due Date, Concessionaire shall pay interest on the unpaid installment at the rate of EIGHTEEN PERCENT (18%) per annum (a "Finance Charge"), from such Fee Due Date and continuing until payment is received by PMGAA in full.

3.3.2 In the event any payment is received by PMGAA more than TEN (10) days after the Fee Due Date, a late penalty of TEN PERCENT (10%) of the amount of such delinquent payment (a "Late Penalty") shall be due and payable in addition thereto.

3.3.3 In the event Concessionaire shall deliver a worthless check or monetary draft to PMGAA in payment of fees required herein; then services charge equal to the greater of TWENTY-FIVE DOLLARS (\$25.00) or FIVE PERCENT (5%) of the face amount of such check or monetary draft shall be due and payable in addition thereto.

3.4 Taxes. In the event any governmental authority shall impose a tax or imposition based upon any rental payments, fees or any other sums paid or owing hereunder or the receipt of such payments by PMGAA, then, Concessionaire shall pay such amounts to PMGAA at the same time and in addition to payments hereunder,

which amounts may include, but are not limited to, any or all rental, transaction privilege, sales, excise or other similar tax except income taxes. Concessionaire's obligation to pay such amounts together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

3.5 Performance Guarantee. Concessionaire shall provide to PMGAA the amount of **<AMOUNT>** DOLLARS (\$**<##>**) (the "Performance Guarantee") **[not less than \$1,000]**, in order to guarantee Concessionaire's full and faithful performance of its covenants and obligations hereunder. Except to the extent applied to any amounts due from Concessionaire upon the termination or expiration of this Agreement, PMGAA shall refund the Performance Guarantee to Concessionaire within THIRTY (30) calendar days after Concessionaire vacates the ATM Locations in accordance with SECTION 7.6 herein; except, however, that should this Agreement be terminated due to Concessionaire's default, PMGAA shall be entitled to retain all or any remaining amounts of said Performance Guarantee.

3.5.1 The Performance Guarantee, at the election of PMGAA, may be applied in reduction of any loss and/or damage sustained by PMGAA by reason of the occurrence of any breach, nonperformance or default by Concessionaire under this Agreement without the waiver of any other right or remedy available to PMGAA at law, in equity or under the terms of this Agreement. If any portion of the Performance Guarantee is so used or applied, Concessionaire shall, within FIVE (5) business days after written notice from PMGAA, deposit with PMGAA immediately available funds in an amount sufficient to restore the Performance Guarantee to its original amount. Unless this Agreement is terminated as a result of Concessionaire's default whereupon Concessionaire shall immediately forfeit its Performance Guarantee to PMGAA, upon termination, PMGAA shall return to Concessionaire all portions of the Performance Guarantee which were not otherwise applied by PMGAA as permitted above within THIRTY (30) calendar days thereafter. PMGAA shall have no obligation to maintain a separate account for such security deposit and shall have no obligation to pay interest thereon.

3.6 Survival. Concessionaire's obligation to pay all amounts herein stated, together with any interest thereon and/or penalties therefor, shall survive the termination of this Agreement.

4. RECORDS AND AUDITING.

4.1 Concessionaire Records. With respect to its operation on the Airport, Concessionaire shall keep true and accurate records, books and data that shall show all banking and ATM transactions conducted at and on the ATM Locations and itemized by ATM unit. Said records, books and data shall be kept and maintained at Concessionaire's business office in the local Phoenix, Arizona area, or upon written PMGAA request, shall be made available for audit at the Airport, within TEN (10) business days after Concessionaire receives such request. PMGAA and its authorized representatives shall have the right at reasonable times and during business hours to inspect and examine records, books and other data as required to verify billings as described hereinabove.

4.1.1 Reserved.

4.2 PMGAA Audit Authority. In accordance with SECTION 4.1, PMGAA or its authorized representatives shall have the right to audit Concessionaire's records relating to all ATM unit transactions, monthly payments reported and paid hereunder, and any other activity by Concessionaire on the Airport during the TWELVE (12) consecutive month period preceding the date of such audit. If PMGAA finds or determines that a discrepancy exists for the period of the audit, Concessionaire shall promptly pay the cost and expense of PMGAA's audit. For purposes of this Agreement, a "discrepancy" shall mean one where audited billing exceed reported billings by TWO PERCENT (2%) or more. The amount of any such deficiency established by such audit shall be conclusive and binding upon the Parties and shall be paid by Concessionaire no later than TEN (10) calendar days from the billing date.

5. IMPROVEMENTS AND ALTERATIONS.

5.1 Concessionaire's Acceptance. Concessionaire agrees to accept the ATM Locations in an "as is" condition and accepts financial responsibility for all improvements specified in SECTION 5.3 herein, and as required to make the ATM Locations suitable for Concessionaire's business operations.

5.2 Authorization. Concessionaire shall make no improvements or alterations to the ATM Locations during the Term of this Agreement without prior notice to and written permission of PMGAA. Concessionaire shall provide PMGAA with electronic, as-built drawings (or their equivalent) upon completion of any approved improvement or alteration if PMGAA shall so require.

5.3 Title to Alterations and Improvements. Title to all permanent improvements and alterations at and on the ATM Locations, including the Initial Improvements, but not Concessionaire's equipment and fixtures, shall vest in PMGAA upon the expiration of this Agreement, and Concessionaire agrees to execute and deliver to PMGAA, within TEN (10) business days after PMGAA's request therefor, a quitclaim deed confirming that title to such improvement and alterations is vested in PMGAA.

5.4 Mechanic's Liens. Concessionaire shall keep the ATM Locations and all improvements thereon free of any mechanic's or materialmen's liens or liens of any kind or nature through the Term. In the event that any such lien is filed, Concessionaire shall, at its sole cost, cause such lien to be removed from the ATM Locations within THIRTY (30) calendar days of notice thereof.

5.5 Permit Required. Concessionaire shall be responsible for determining whether it is subject to local building codes or building permit requirements, and for compliance with them to the extent they are applicable. All structural, electrical, plumbing or mechanical construction or reconstruction shall conform to City of Mesa (hereinafter referred to as the "City") construction and technical codes. No such work shall be commenced without first submitting required plans and obtaining required permits from the City. All such work shall be permitted, inspected and approved by the City prior to concealment and/or use.

5.6 Damage or Destruction.

5.6.1 In the event of damage to or destruction to the ATM Locations, such that other Terminal or GA Center activities remain unaffected or minimally affected, Concessionaire shall give PMGAA notice thereof, and undertake appropriate repairs or other suitable actions to restore such ATM Locations to their original, usable condition as expeditiously as possible, and, as a minimum, any and all insurance proceeds derived incident thereto shall be applied fully to such restoration. Should Concessionaire fail to complete said restorative actions within ONE HUNDRED TWENTY (120) calendar days after the occurrence of such damage or destruction, subject to any delay for reasons beyond Concessionaire's reasonable control, PMGAA may elect to terminate this Agreement; provided, however, PMGAA may not elect to terminate at any time when restoration, repair or replacement has been commenced and is being pursued with commercially reasonable diligence.

5.6.2 Should greater than FIFTY PERCENT (50%) the Terminal and/or GA Center, including the ATM Locations, be rendered untenable by fire or other casualty and PMGAA either cannot or elects to not complete restorative action within a reasonable period of time, Concessionaire shall have the option to terminate this Agreement. Further and during PMGAA's restorative activities, PMGAA shall abate all fees and other charges owed in connection with the damaged or destroyed ATM Locations until such time as the Agreement is terminated or Concessionaire is able to recommence business operations therefrom.

6. MAINTENANCE, REPAIRS, SERVICE AND INSPECTIONS.

6.1 Maintenance and Utilities.

6.1.1 Concessionaire shall, at its sole expense, maintain the ATM Locations, including all Improvements and equipment thereon, in good and safe repair and in a neat, clean and orderly condition throughout the Term of this Agreement.

6.1.2 If Concessionaire refuses or neglects to undertake the maintenance, repair or fixture replacement action(s) requested in writing by PMGAA, or if PMGAA is required to make any repairs necessitated

by the acts or omissions of Concessionaire, its employees, agents, licensees or contractors, PMGAA shall have the right to make such repairs on behalf of and for Concessionaire. Such work shall be paid for by Concessionaire within TEN (10) calendar days following receipt of an invoice for such from PMGAA, at the rate of actual work cost plus the appropriate administrative processing fees in effect at the time such work is performed.

6.1.3 PMGAA has provided and will maintain all required utility services to the ATM Locations. PMGAA shall have no liability for blackouts, brownouts, cessation, interruption or failure of utilities.

6.1.4 As a condition of its right to occupy the ATM Locations, Concessionaire shall ensure that the operation of any wireless access point does not cause interference with existing communications users, including, without limitation, aviation-related operations and equipment at the Airport, the operations of any existing wireless users operating at the Airport and PMGAA's own radio systems. If Concessionaire's operation of any wireless access point causes any such interference to existing users, Concessionaire shall take all steps necessary to remove the cause of the interference and shall cooperate with PMGAA and any necessary third parties to identify and eliminate such cause(s). If PMGAA determines, in its sole discretion, that the wireless access point or signals being transmitted by means of the wireless access point are the cause of such interference, PMGAA may direct Concessionaire to immediately cease operation of all or any portion of the wireless access point, or otherwise take action to eliminate the interference.

6.2 Equipment Service & Repairs.

6.2.1 Concessionaire shall routinely service all ATM units to ensure they are properly stocked, cleaned, are in a serviceable condition and possess the latest applicable software editions at all times.

6.2.2 Concessionaire also shall ensure each ATM unit's system management capabilities for predicting, assisting and reporting maintenance and the need for cash replenishment are operable at all times. Response time to service calls on ATM units and replenishment of funds shall be no greater than FOUR (4) hours of notification.

6.2.3 Any damage caused to the ATM Locations or any PMGAA property by any act, omission or negligence of Concessionaire, its employees, invitees, suppliers or furnishers of service shall be repaired and restored to the condition existing prior to damage by Concessionaire at Concessionaire's sole expense in accordance with plans and specifications approved by PMGAA. Should PMGAA find it necessary to make such repairs itself, Concessionaire shall pay PMGAA, as additional fees hereunder, the expenses of all repairs thereby incurred, as provided in SECTION 6.4.2 herein.

6.3 Services.

6.3.1 Concessionaire agrees to provide, at its own expense, such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of its equipment on the ATM Locations. Concessionaire also agrees to keep and maintain the ATM Locations in a clean, neat and sanitary condition, and attractive in appearance, to the maximum practical extent. In the event PMGAA determines, in its sole, reasonable discretion, that Concessionaire's janitorial and cleaning program is not acceptable or sufficient, then PMGAA may, after reasonable notice to Concessionaire, seek to provide such services by other means. Concessionaire agrees to reimburse PMGAA no later than TWENTY (20) calendar days following written demand by PMGAA for any expenses incurred by PMGAA due to conditions at the ATM Locations.

6.3.2 Concessionaire shall provide for the complete removal, sanitary handling and disposal of all trash, garbage and other refuse resulting from its business operations at, on, about or from the ATM Locations to receptacles at locations specified by PMGAA.

6.4 Inspections. PMGAA, its authorized employees, agents, contractors, subcontractors, and other representatives shall have the right, but not the obligation, at all reasonable times, to enter upon the ATM Locations to:

6.4.1 Inspect the ATM Locations during regular business hours (or at any time in case of an emergency) to ascertain the condition of the ATM Locations and to determine Concessionaire's compliance with

the terms of this Agreement and applicable other regulatory requirements. This right of inspection shall not imply or infer any duty of PMGAA to inspect and shall impart no liability upon PMGAA for failure to inspect.

6.4.2 Perform or arrange to perform maintenance and repairs and replacements in any event when Concessionaire is obligated to do so under this Agreement and failed to do so within TEN (10) business days after written notice from PMGAA, or at any time with or without written notice in the event that PMGAA, in its sole discretion, deems that it is necessary or prudent to correct any condition likely to lead to injury or damage. If such maintenance, repairs, or replacements are required to be made by Concessionaire under this Agreement, but are performed by PMGAA, then, Concessionaire shall pay PMGAA's entire cost and expense of performing such work as additional rent to PMGAA upon written demand therefor.

6.4.3 Perform any obligation of PMGAA under this Agreement and to make additions, alterations, maintenance, and repairs to the Terminal, including its utility systems.

All entries by PMGAA, its authorized employees, agents, contractors, subcontractors, and other representatives made pursuant to this SECTION 6.4, shall be without abatement of fees, provided that such entries do not cause unreasonable interference with Concessionaire's business operations.

7. CONCESSIONAIRE'S COMPLIANCE.

7.1 Regulatory Compliance and Certification. Concessionaire, its agents, employees, invitees, subcontractors and independent contractors shall comply with all directions, rules, regulations and operating procedures of PMGAA in effect or hereinafter promulgated and shall observe and obey all ordinances of the City, as well as all federal and state statutes and regulations governing the use of the Airport and Concessionaire's business activities thereon.

7.2 Operating Permits. Concessionaire shall furnish to PMGAA, prior to conducting any business or activities at, on or within the ATM Locations and the Airport, copies of all operating permits required by the City, or any other government entity, if applicable.

7.3 Reserved

7.4 Operating and Service Standards. Concessionaire shall operate its business from the ATM Locations, and elsewhere as may be permitted by PMGAA from time to time. In addition, Concessionaire shall:

7.4.1 Professional Management. Designate a local representative experienced in management and supervision who has sufficient authority and responsibility to ensure proper operation of the concession, to render decisions and to take all necessary action(s) in connection with this Agreement. Such a person (or his or her authorized and designated representative) shall be available during normal business hours and be contactable at all other times should emergencies arise.

7.4.2 Personnel.

a. Maintain a sufficient number of trained personnel to ensure Concessionaire's customers receive prompt and courteous service at all times. All personnel of Concessionaire, while on or about the ATM Locations, shall be polite, clean, uniformed and present a professional appearance at all times. Concessionaire shall not permit its agents, servants, or employees (whether full-time, part-time or contract) to solicit business from the ATM Locations or other Airport locations in any manner whatsoever, except through the use of signs approved by PMGAA.

b. Ensure all Concessionaire employees (whether full-time, part-time or contract) are at all times competent, experienced, and properly licensed to perform their duties, as and if required by applicable federal, state and local laws, and obey all traffic laws and regulations. Said employees shall at all times be under the direction of Concessionaire, who will be solely responsible for their conduct and performance and shall conduct themselves with courtesy and dignity with the public interest of primary importance.

c. Promptly respond to and resolve any issue with any employee whose conduct PMGAA or its Executive Director feels is detrimental to the best interests of the Airport and PMGAA.

d. Not, during the Term of this Agreement, hire or employ, on either a full-time, part-time or contract basis, any person or persons employed by PMGAA.

e. To the extent applicable under Arizona Revised Statutes (ARS) §41-4401, Concessionaire warrants compliance with all federal immigration laws and regulations that relate to Concessionaire's employees and compliance with the E-verify requirements under ARS §23-214(A). Concessionaire's breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in its termination by PMGAA. PMGAA retains the legal right to randomly inspect the papers and records of any employee who works under this Agreement to ensure Concessionaire is complying with the above-mentioned warranty.

7.4.3 Scrutinized Business Operations. Pursuant to ARS §§35-391.06 and 35-393.06, Concessionaire certifies that it does not have a scrutinized business operation in the Sudan or Iran. For purposes of this SECTION 7.4.3, the term "scrutinized business operations" shall have the meanings set forth in ARS §§ 35-391 and 35-393, as applicable. If PMGAA determines that Concessionaire submitted a false certification, PMGAA may impose remedies as provided by law, including termination of this Agreement.

7.4.4 Public Service. Ensure that its business operations at, on and about the ATM Locations are conducted in a professional, first-class manner, and that all facilities, equipment, services, and standards of operation are at least equal to the quality of service rendered by other companies of a like nature at other modern airport terminal and banking facilities. The general public shall be given the highest consideration at all times in matters affecting the operation of this concession, and Concessionaire shall emphasize the tenets of "exceptional customer service" and "value" in both its business activities and during interaction with its customers.

7.4.5 Hours of Operation. Ensure all ATM units are available and stocked for customer use 24-hours daily and are always kept in good operating condition, such that the machines will satisfy all reasonable requests for service.

7.4.6 Transaction Pricing. Charge no more than THREE DOLLARS (\$3.00>) fee for each ATM transaction, unless advance, written PMGAA authorization for an alternate fee is provided, therefore. At all times, adhere fully to PMGAA's "Value" or "Street" pricing requirement by charging transaction and other service fees that do not exceed those charged at comparable locations within the Phoenix metropolitan area. PMGAA reserves the right to require Concessionaire to provide comparable pricing from not less than THREE (3) locations acceptable to PMGAA at any time at PMGAA's sole and absolute discretion.

7.4.7 Reserved.

7.4.8 Complaints by Public. In the event Concessionaire receives (or PMGAA receives and forwards to Concessionaire) any written complaint concerning Concessionaire's operation of the concession, promptly respond to such complaint in writing within TEN (10) business days of its receipt and make a good-faith attempt to explain, resolve or rectify the cause of such complaint. Repeated complaints by the public concerning Concessionaire's services may be grounds for termination of this Agreement.

7.4.9 Record-keeping. Ensure each ATM unit is equipped and capable of recording all transactions properly, accurately, and completely, and cause such recorded information to be further recorded and maintained at Concessionaire's business office(s).

7.5 Condition of the ATM Locations. Concessionaire shall keep the ATM Locations, including all ATM units, neat and clean at all times, so as to present a positive image to Airport patrons. All signage and notices posted on the units and in proximity to the ATM Locations shall be professionally prepared and affixed or incorporated into the units in a safe, aesthetically pleasing manner, such that they complement the concession and Terminal/GA Center décor. All ATM units shall be kept clean and free of nonessential stickers and/or other materials that deface said units.

7.6 Surrender of Occupancy.

7.6.1 When this Agreement expires or is otherwise terminated in whole or in part as provided elsewhere in this Agreement, Concessionaire shall surrender the ATM Locations and fixed improvements, if any, and restore the ATM Locations, at Concessionaire's sole expense, to the condition as existed immediately prior to the Effective Date of this Agreement.

7.6.2 Concessionaire shall be deemed to have abandoned to PMGAA any personal property and trade fixtures that it has failed to remove from the Premises within FIFTEEN (15) calendar days after the end of the Term of this Agreement, or the effective date of termination thereof, unless PMGAA grants additional time for this purpose in writing. During this period, Concessionaire shall remain responsible for monthly rental and other payment(s) to PMGAA until such time as the Premises are fully available to PMGAA for maintenance, renovation or re-letting to another concessionaire. After the expiration of the aforementioned FIFTEEN (15) business day period or any extension thereof granted by PMGAA, PMGAA shall have the right to remove the property of Concessionaire and restore the Premises to a satisfactory condition and hold Concessionaire liable for all costs incident thereto. In the event it is necessary for PMGAA to remove such property, PMGAA shall not sustain or be charged with any liability by reason of the removal or custodial care of same.

8. AIRPORT SECURITY PLAN.

8.1 Airport Security Plan.

8.1.1 Airport's Operations Department maintains an approved Airport Security Plan ("Security Plan") pursuant to 49 CFR Parts 1540 and 1542, and 14 CFR Part 139. Concessionaire shall at all times comply with Airport's Operations Department security directives, security bulletins, or verbal notifications existing now or in the future.

8.1.2 Concessionaire is responsible for maintaining security practices, facilities, and perimeter boundaries on their leasehold that meet the security standards set forth by Airport's Operations Department.

8.1.3 Concessionaire shall promptly upon written request from Airport correct physical or procedural deficiencies caused by Concessionaire that are located on the Premises which are contrary to Airport's Operations Department, security directives, security bulletins, or verbal notifications existing now or in the future. Within TWENTY-FOUR (24) hours of Airport notifying Concessionaire of any deficiency, Airport shall provide Concessionaire with a reasonably-detailed explanation of the deficiencies. Concessionaire shall be given a reasonable period of time (under the circumstances) to correct such deficiencies.

8.1.4 Concessionaire shall, to the fullest extent permitted by law, indemnify, defend and hold Airport harmless for, from and against any security violation committed by any agents, employees, invitees, subcontractors, sub-Concessionaires or independent contractors of Concessionaire.

8.1.5 Concessionaire shall conduct and document all self-audits and self-inspections as required by Transportation Security Administration ("TSA") or Airport's Operations Department and make such audits available for inspection.

8.1.6 Concessionaire shall designate a primary security coordinator to receive security related briefings, bulletins and sensitive security information.

8.1.7 Airport reserves the right to modify the Security Plan from time to time, as necessary or as directed by TSA. Airport's Operations Department shall notify the Concessionaire security coordinator regarding modifications that effect Concessionaire.

8.2 Airport Security Badge.

8.2.1 Concessionaire's employees and contractors that require a badge shall be obligated to complete all training and comply with all security requirements and directives issued by Airport's Operations Department, TSA or other entity having security jurisdiction at the Airport. Concessionaire, Concessionaire's employees, and contractors will surrender security badges upon request by Airport's Operations Department; physical security media (badges and keys) remain the property of Airport. Within SEVENTY-TWO (72) hours of Airport's confiscation of any security badges, Airport shall provide Concessionaire with a reasonably-detailed explanation of the violations that caused Airport to confiscate the security badges.

8.2.2 Concessionaire and Concessionaire's employees and contractors shall comply with all security related audits, inspections, and screenings conducted by Airport's Operations Department.

8.2.3 Concessionaire will promptly return badges to Airport's badging office when badge holders employment is terminated, the badge is no longer needed or the employee/contractor is on extended leave.

8.2.4 Misuse of a badge or security procedures will bring about action, including, but not limited to, retraining of badge holders, and/or suspension or revocation of one or all misused badges.

9. TAXES, LICENSES AND PERMITS.

Concessionaire shall pay all taxes and assessments that may be levied or charged upon its property, equipment and activity hereunder, and shall secure and comply with all licenses and permits required by PMGAA or any other governmental authority exercising jurisdiction over its business or activities. Concessionaire shall also pay any taxes or assessments levied upon PMGAA as a result of Concessionaire conducting its business under the authority of this Agreement.

10. INSURANCE AND INDEMNIFICATION.

10.1 Insurance Coverage Required. Concessionaire shall at all times and prior to the Effective Date, at its sole expense, maintain in effect the insurance coverage set forth below, deliver a certificate of insurance for each policy to PMGAA and continue to provide such certificate(s) throughout the Term:

10.1.1 Comprehensive General/third-party bodily injury and property damage insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, including coverage for "ATM Locations/operations," "products and completed operations," "professional," and "blanket contractual" liabilities.

10.1.2 Commercial Automobile Liability insurance covering all owned, non-owned and hire vehicles operated on the Airport that are assigned to or used in the performance of commercial activities, or that are operated within the AOA in the amount of \$1,000,000. If any hazardous materials are transported within Airport boundaries in conjunction with the operator's business activities, an MSC-90 Endorsement is required. Coverage amounts generally apply to Basic Injury per Person, Basic Injury per Accident and Property Damage.

10.1.3 Property insurance (all risk) for the full value of personal property and improvements to the ATM Locations for their full insurable value on a replacement-cost basis.

10.1.4 Workers' Compensation insurance, as required by law, and *Employer's Liability* insurance in the amount of \$1,000,000.00.

10.2 Insurance Form. Each insurance policy obtained pursuant to this SECTION 10, except for workers' compensation and employer's liability policies, shall: (i) name PMGAA as a certificate holder and an additional named insured; (ii) contain a provision that written notice of cancellation or modification thereof shall be given to PMGAA not less than THIRTY (30) calendar days before such cancellation or modification takes effect (TEN (10) days in the case of nonpayment of premium); and (iii) contain a waiver of subrogation in favor of PMGAA. Concessionaire shall not permit any insurance policy to be canceled or modified without PMGAA's written consent unless equivalent replacement policies are issued with no lapse in coverage. All policies shall be obtained from insurance companies licensed to do business in the State of Arizona and possessing a rating of at least A - VII or higher from the A.M. Best Company, or an equivalent rating approved by PMGAA.

10.3 Indemnification. To the fullest extent permitted by law, Concessionaire shall indemnify, defend and hold PMGAA, its agents and employees, harmless for, from and against all liability, claims, damages, losses, expenses, and fines including attorneys' fees and costs of litigation, arising out of, sustained, or in any manner related to Concessionaire's use of and activities at the Airport or any part or appurtenance thereof. Concessionaire shall not be liable for losses due to the gross negligence or willful misconduct of PMGAA, its agents or employees.

11. **ASSIGNMENT.**

11.1 Consent. Concessionaire shall not assign, transfer, or encumber this Agreement in any manner, or any part hereof, or interest herein or sublease any of the ATM Locations hereunder, except with the prior written permission of PMGAA and subject to whatever reasonable limitations and conditions may be required by PMGAA. Any other transfer, assignment or sublease shall be void and shall confer no rights upon any third person. No assignment or sublease shall relieve Concessionaire of any obligation under this Agreement unless otherwise agreed in advance, in writing by PMGAA. Notwithstanding the foregoing, this SECTION 11 shall not be interpreted to preclude the assignment of this Agreement to a parent, subsidiary, or merged company, if such part, subsidiary, or merged company assumes all rights and obligations of this Agreement. Written notice of such assumption shall be provided to PMGAA by the parent, subsidiary, or merged company not less than THIRTY (30) calendar days prior to the effective date of such assignment.

11.2 Transfer Defined. For the purposes of this Agreement, a "transfer" shall be deemed to include the following: (i) if Concessionaire is a corporation, partnership, limited liability company, or other legal entity, the transfer of any ownership interest in such entity resulting in a change in the present control of such entity by the person or persons owning a majority of the ownership interest thereof as of the date of this Agreement; provided, however, if Concessionaire is a corporation whose stock is traded on a nationally recognized stock exchange, the transfer of Concessionaire's stock shall not constitute a transfer requiring PMGAA's consent; or (ii) the sale of TWENTY-FIVE PERCENT (25%) or more in value of the assets of Concessionaire.

11.3 Non-Disturbance. PMGAA agrees, for the benefit of all subtenants of all or any part of the ATM Locations, that if this Agreement or Concessionaire's right to possession of the ATM Locations is terminated for default or otherwise, all subleases of all or any part of the ATM Locations, except any sublease to an affiliate of Concessionaire, shall continue in full force and effect notwithstanding the termination as direct leases or contracts between PMGAA and the subtenants and contractors, and all such subtenants and contractors upon request shall attorn in writing to PMGAA.

12. **CANCELLATION PROVISIONS.**

12.1 PMGAA's Right of Cancellation. Except as may be otherwise provided herein, PMGAA shall have the right to terminate this Agreement in its entirety immediately if Concessionaire commits any one or more of the hereinafter listed events of default. Upon receiving notice of such termination, Concessionaire shall immediately cease its operations within the Premises and on the Airport and remove all of its employees and personal property therefrom:

12.1.1 If Concessionaire shall fail to pay any installment of rent or any other amount due from Concessionaire hereunder, provided that Concessionaire does not cure or initiate demonstrable corrective action for such failure within TEN (10) business days after delivery by PMGAA of a written notice of such failure.

12.1.2 If Concessionaire shall neglect or fail to perform, keep or observe any other terms, covenants or conditions herein contained and if such neglect or failure shall continue for a period of THIRTY (30) calendar days after delivery by PMGAA of a written notice of such default; provided, however, if a cure of the default reasonably requires more than THIRTY (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

12.1.3 The taking by a court of competent jurisdiction of Concessionaire and its assets pursuant to proceedings under the provisions of any Federal or State reorganization or bankruptcy code or act.

12.1.4 The occurrence of any act which deprives the Concessionaire of the rights, licenses, permits and authorizations necessary for the proper and lawful conduct of the Concessionaire's business operations at, on, about or from the Airport.

12.1.5 If Concessionaire shall abandon all or any part of the Premises or shall discontinue the conduct of its operations in all or any part of the Premises for a period of THREE (3) consecutive days.

12.1.6 The filing of any mechanic's, materialman's or other lien or any kind against the Premises because of any act or omission of Concessionaire which lien is not discharged, by bonding or otherwise, within THIRTY (30) calendar days of receipt of actual notice thereof by Concessionaire.

12.1.7 Concessionaire receipt of THREE (3) written notices of default for violations of the Security Plan or *Airport Rules and Regulations* from PMGAA within a SIX (6) consecutive calendar month period.

12.1.8 A transfer or assignment occurs without PMGAA's prior written approval.

12.1.9 Concessionaire conducts its operations in such a manner as to threaten public safety, as determined by PMGAA in conformity with the laws and regulations of the State of Arizona and PMGAA.

12.1.10 PMGAA determines that Concessionaire willfully falsified any of its records or figures so as to deprive PMGAA of any of its rights under the terms of this Agreement..

12.2 Concessionaire's Right of Cancellation for Default. Concessionaire shall have the right to terminate this Agreement in its entirety upon THIRTY (30) calendar days advance written notice to PMGAA if one or more of the following events of default are committed by PMGAA:

12.2.1 The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of the Airport in such a manner as to substantially restrict Concessionaire from conducting its business activities at, on and within the Premises, which injunction is not caused by any act or omission of Concessionaire and such injunction remains in force for at least SIXTY (60) consecutive calendar days.

12.2.2 If Concessionaire is deprived of the use of all or a major portion of the Premises for THIRTY (30) consecutive calendar days or more, subject to the relocation or other applicable renovation provision provided for herein.

12.2.3 The assumption by the United States Government and the authorized agencies thereof, or any other governmental agency, of the operation, control or use of Airport facilities, including the Premises, or any substantial part or parts thereof in such a manner as to substantially restrict the conduct of Concessionaire's business thereto for a period of THIRTY (30) consecutive calendar days or more.

12.2.4 A breach by PMGAA of any of the terms and covenants or conditions within this Agreement. In the event of such a breach, Concessionaire shall have available all rights and remedies provided at law or in equity, subject to the terms and conditions of this Agreement; provided, however, Concessionaire may not exercise any such right or remedy unless Concessionaire has notified PMGAA by written notice of such alleged default, and PMGAA has not cured such default within a THIRTY (30) calendar day period subsequent to receipt of such notice or, in the event such alleged default is of such a nature that it cannot be reasonably cured

within such THIRTY (30) day period, PMGAA has failed to cure such alleged default with all due diligence. Notwithstanding anything to the contrary in this Agreement, in no event shall Concessionaire be entitled to terminate this Agreement or abate or offset any installment of rent or any other payments to be made by Concessionaire hereunder.

13. NONWAIVER.

PMGAA's right to revoke this Agreement shall be absolute. Any election by PMGAA to not enforce any provision of this Agreement, or any failure by PMGAA to exercise any of the remedies allowed PMGAA under this Agreement, shall not operate as a waiver by PMGAA of its right.

14. APPLICABLE LAW.

The laws of the State of Arizona, including its conflicts of law provisions, shall govern the matters set forth in this Agreement. Venue of any action brought under this Lease shall, at the option of PMGAA, lie in Maricopa County, Arizona.

15. RULES AND REGULATIONS.

Concessionaire shall at all times comply with all Federal, State and local laws, ordinances, rules, and regulations which are applicable to its operations, the ATM Locations itself (including but not limited to the Americans with Disabilities Act), or the operation, management, maintenance, or administration of the Airport, including all laws, ordinances, rules and regulations adopted after the Effective Date. Concessionaire shall at all times comply with PMGAA's Airport Rules and Regulations, as applicable and as the same may be amended from time to time. A copy of PMGAA's Airport Rules and Regulations is attached hereto as **Exhibit 4**. Concessionaire acknowledges and agrees that PMGAA may amend the Airport Rules and Regulations at any time in PMGAA's sole and absolute discretion. Concessionaire also shall display to PMGAA any permits, licenses, or other evidence of compliance with laws upon request.

16. CORPORATE AUTHORIZATION.

In executing this Agreement, Concessionaire represents and warrants to PMGAA that Concessionaire has obtained and been granted the full right, power and authority to enter into this Agreement.

17. NOTICES.

17.1 Notices required under this Agreement shall be in writing and delivered personally or by registered or certified mail, postage prepaid, addressed as follows:

TO PMGAA:

Phoenix-Mesa Gateway Airport Authority
Attn.: Business and Properties Manager
5835 S. Sossaman Road
Mesa, Arizona 85212-0919

TO CONCESSIONAIRE:

<Company Name>
Attn.: <Contact Person>, <Title>
<Mailing Address>
<City, State, Zip code>
Telephone: (<Area code>) <number>

17.2 Notice by certified or registered mail in the manner described above shall be deemed effective the day after its deposit in the mail.

18. PRIOR PERMITS.

Upon execution hereof, this Agreement shall supersede and cancel any prior agreement(s) between PMGAA and Concessionaire with respect to the Terminal and/or GA Center business activities governed hereby. Concessionaire shall not construe PMGAA's execution of this Agreement as a waiver of any prior indebtedness or obligation to PMGAA under any prior agreement or license, nor does PMGAA waive any claim or cause of action arising therefrom.

19. ENVIRONMENTAL COMPLIANCE.

Concessionaire shall, at Concessionaire's own expense, comply with all present and hereinafter enacted environmental laws, rules and regulations and any amendments thereto, affecting or applying to Concessionaire's operations and activities at, on or within the ATM Locations and the Airport.

20. ACDBE REQUIREMENTS

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire 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 covered by 49 CFR Part 23.

The concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statement in further agreements.

20.1 PMGAA's Airport Concession Disadvantaged Business Enterprise (ACDBE) Program is race neutral. PMGAA encourages the use of ACDBEs and other small businesses in the performance of this concession opportunity. In order to be counted as an ACDBE, a small business must be certified as an ACDBE at time of award by a certifying agency within the Arizona Unified Certification Program (UCP).

20.1.1 Concessionaire shall make outreach efforts to carry out this policy during the term of the Agreement through award of subcontracts to small businesses and disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of PMGAA's contract, and/or the utilization of ACDBE suppliers where feasible.

20.2 Record Requirements. Concessionaire is required to track and report to PMGAA all ACDBE and/or small business participation that occurs as a result of a contract, procurements, purchase orders, sublease, joint venture, goods/services or other arrangements involving sub-tier participation.

20.2.1 PMGAA reserves the right to validate the information submitted by Concessionaire with the ACDBE firm listed and/or other certifying entities or licensing agents as part of the verification process.

20.2.2 Concessionaire shall submit to PMGAA periodic reports of subcontract and/or supplier awards to ACDBE firms in such form and manner and at such times as PMGAA shall prescribe. Concessionaire shall provide access to books, records, and accounts to authorized officials of PMGAA, and Federal agencies for the purpose of verifying ACDBE participation and outreach efforts to carry out the ACDBE Policy and Program. See **EXHIBIT 3** for current report requirement.

20.2.3 Prior to any work commencing by Concessionaire's ACDBE subcontractors/suppliers, Concessionaire shall provide PMGAA copies of all executed contracts with such ACDBEs for review of contract compliance with PMGAA's ACDBE Program.

20.3 Outreach Efforts. Throughout the term of this Agreement, and any extension thereof, Concessionaire shall demonstrate it has performed outreach efforts to solicit participation from certified ACDBEs and other small businesses. This requires Concessionaire to document the identification of potential business opportunities for ACDBEs, describe what efforts were undertaken to solicit for ACDBE involvement, results of negotiations with potential ACDBEs, and record the communications of Concessionaire's selection or non-selection of ACDBEs.

The actions taken to meet outreach efforts must be substantiated by written documentation and provided to PMGAA. A declaration that outreach efforts were made will not be sufficient to meet the burden of proof required.

20.4 Approved ACDBE Program. PMGAA's Airport Concession Disadvantaged Business Enterprise Program dated, October 2021 and approved by the FAA, all its terms and conditions is hereby incorporated into and made part of this Agreement by reference.

The approved ACDBE Program can be found at: <http://www.gatewayairport.com>. PMGAA reserves the right to revise the Program as required.

20.5 Amendments. PMGAA's ACDBE program shall also apply to any amendments to this Agreement that requires work beyond the scope of services originally required to accomplish the project. Concessionaire shall make outreach efforts to obtain ACDBE participation for additional scope(s) of services.

20.6 Enforcement. This Agreement and all subsequent subcontracts entered into as a result of this Agreement, are subject to the requirements, provisions, and enforcement actions of 49 CFR Part 26, Subpart F, Compliance and Enforcement, § 26.101 and 26.105 through 26.109.

Failure to comply with the requirements of SECTION 21 of this Agreement constitutes a breach of this Agreement subject to termination by PMGAA.

21. TITLE VI.

21.1 Civil Rights Act of 1964, Title VI – General

In all its activities within the scope of its airport program, the Concessionaire agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

If the Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as the Concessionaire.

The above provision obligates the Concessionaire for the period during which the property is owned, used or possessed by the Concessionaire and the airport remains obligated to the Federal Aviation Administration.

21.2 Civil Rights – Title VI, List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the "Concessionaire") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on

the basis of age);

- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

21.3 Civil Rights – Title VI, Compliance with Nondiscrimination Requirements

During the performance of this contract, the Concessionaire, for itself, its assignees, and successors in interest (hereinafter referred to as the “Concessionaire”), agrees as follows:

Compliance with Regulations: The Concessionaire (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Concessionaire, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Concessionaire for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Concessionaire of the concessionaire’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Concessionaire will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Concessionaire is in the exclusive possession of another who fails or refuses to furnish the information, the Concessionaire will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to

obtain the information.

Sanctions for Noncompliance: In the event of a Concessionaire's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to: Withholding payments to the Concessionaire under the contract until the Concessionaire complies; and/or Cancelling, terminating, or suspending a contract, in whole or in part.

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

21.4 Civil Rights – Title VI, Use and Access to Property

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by PMGAA pursuant to the provisions of the Airport Improvement Program grant assurances. The Concessionaire for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Concessionaire will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

22. **MISCELLANEOUS.**

22.1 Personal Liability. No member of PMGAA or employee of either Party shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

22.2 No Waiver. No provision of this Agreement may be waived or modified except by a written instrument signed by the Party against whom such waiver or modification is sought.

22.3 Non-Waiver of Rights. No waiver or default by PMGAA of any of the terms, conditions, covenants or agreements hereof to be performed, kept or observed by Concessionaire shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions or agreements herein contained to be performed, kept or observed by Concessionaire, and PMGAA shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

22.4 Amendment. This Agreement may be amended only by a written instrument executed by the Parties.

22.5 Cancellation. The Parties hereto acknowledge and agree that this Agreement may be cancelled pursuant to the provisions of ARS § 38-511.

22.6 Invalid Provisions. Should any provision of this Agreement or any application thereof shall be held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both Parties would be substantially and materially prejudiced.

22.7 Litigation Expenses. In the event of litigation between PMGAA and Concessionaire, the prevailing Party shall be entitled to recover its attorneys' fees and all costs and expenses of litigation, including witness fees, expert witness fees, and court costs.

22.8 Holding Over. If Concessionaire shall, without the written consent of PMGAA, hold over after the expiration or sooner termination of the Term of this Agreement, the resulting tenancy and concession privilege shall, unless otherwise mutually agreed, be on a month-to-month basis until such time as Concessionaire shall, upon THIRTY (30) calendar days advance written notice by PMGAA to Concessionaire, surrender the ATM Locations or PMGAA shall reenter the ATM Locations. During such month-to-month tenancy, Concessionaire shall pay rentals to PMGAA at a rate equal to ONE HUNDRED FIFTY PERCENT (150%) of the applicable fees and charges established herein and shall be bound by all of the additional provisions of this Agreement insofar as they may be pertinent.

22.9 Headings. The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

22.10 Approvals, Consents and Notices. All approvals, consents and notices called for in this Agreement shall be in writing, signed by the appropriate party, and may not be established solely by oral testimony.

20.11 Entire Agreement. This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire Agreement between the Parties hereto.

23. INCORPORATION OF RECITALS.

The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

FOR PMGAA:

PHOENIX-MESA GATEWAY AIRPORT AUTHORITY,
an Arizona joint powers airport authority

By: _____

J. Brian O'Neill, A.A.E.,
Executive Director/CEO

STATE OF ARIZONA)
) ss.
County of Maricopa)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ____ day of _____, 2023, by.
J. Brian O'Neill in his capacity as the Executive Director of the Phoenix-Mesa Gateway Airport Authority.

Notary Public

My Commission Expires:

FOR CONCESSIONAIRE:

<COMPANY NAME>, a/an **<State>** **<type of company>**

By: _____

<Signatory Name>, **<Title>**

STATE OF **<STATE>**)
) ss.
County of **<County>**)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this ____ day of _____, **<year>**,
by **<Signatory Name>**, in **his/her** capacity as the **<Title>** of **<Company Name>**.

Notary Public

My Commission Expires:

EXHIBIT 1
ATM Locations

<COMPANY NAME>

Exhibit 2
Monthly Transaction Report



Monthly Transaction Report

BUSINESS NAME: _____

Reporting Period: _____ **Date** to _____ **Date**

Transactions Location	Transaction Totals
Baggage Claim	
Gate 5	
Gateway Aviation Services	
Total Transactions	

Verified Signature: _____
Date
Name

A SIGNATURE IS REQUIRED TO MAKE THIS STATEMENT VALID

Statement is due by the 20th day following the last day of the preceding calendar month

Please make payment payable to:
 Phoenix-Mesa Gateway Airport Authority
 5835 S. Sossaman Rd.
 Mesa, AZ 85212

EXHIBIT 3

Quarterly Reporting of Goods and Services Purchased From ACDBE Firms
Federal Fiscal Year: _____

Reporting Period (Circle One): 10/1 – 12/31 1/1 – 3/31 4/1 – 6/30 7/1 – 9/30

Concessionaire: _____ Contract No.: _____

Authorized Person Completing Form: _____

Title: _____ Telephone: _____

E-mail: _____

The following list represents goods and services purchases from ACDBE firm(s) for the above referenced contract during this reporting period in the amounts listed below. Goods and/or services include supplies, wholesale product, local advertising, automobiles, fuel, and custodial, accounting, and other professional and contracted services that support the concessionaire's operations for this contract.

ACDBE Firm Providing Goods and/or Services	ACDBE Firm Contact Name, Telephone and E-mail Address	Type of Goods and/or Services Provided	NAICS Code(s)	Quarterly Expenditure(s) to this Firm
				\$
				\$
				\$
				\$
Total Goods & Services Provided by ACDBE Firms				\$

Authorized Signature: _____ Date: _____

Concessionaires must complete and submit this form by October 20, January 20, April 20 and July 20 to mmattia@gatewayairport.com. If no ACDBE firms were used in the reporting period, the concessionaire should list "None" in the table before submitting the form.

To verify if a firm is an ACDBE, visit the Arizona Unified Transportation Registration and Certification System (AZ UTRACS) at this link: <https://utracs.azdot.gov/Search>

EXHIBIT 4
PMGAA Airport Rules & Regulations

[Rules & Regulations](#)

EXHIBIT 5

RFP Submittal

Concessionaire's Proposal dated _____, 2023 is hereby incorporated herein and made part of this Agreement.

SAMPLE