



**DEPARTMENT OF AIRPORTS**

***Request for  
Proposals***

**Automated Teller Machine  
Concession Agreement**

**Mandatory Pre-Proposal  
Meeting**

**January 25, 2023 at 10:00 a.m.**

**Proposals Due**

**February 17, 2023 at 2:00 p.m.**

# PART 1

## General Information and Instructions

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### Overview

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Part 1 provides General Information and Instructions for the County of Sacramento Department of Airports' *Automated Teller Machine Concession Agreement* Request for Proposals. The topics covered in Part 1 are listed in the table below.

Section	Topic	Pages
A	The Request for Proposals (RFP)	2-4
B	Proposal Rules	5-7
C	Items To Be Included in Proposals	8
D	Evaluation of Proposals	11

# **Part 1 Section A**

## **The Request for Proposals (RFP)**

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### **Solicitation of Proposals**

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The County of Sacramento (County) Department of Airports (Department) is soliciting proposals from interested parties to provide and manage an Automated Teller Machine (ATM) concession in the following locations: Sacramento International Airport (SMF) Terminal A, Terminal B, Concourse B, and Rental Car Facility; Sacramento Executive Airport terminal building.

Based upon the responses received to this public Request for Proposal (RFP), the Department will select one operator to provide and manage ATM services at those locations listed above. The ATM operation will be conducted in accordance with the terms and conditions of the Automated Teller Machine Concession Agreement attached to this RFP as Attachment 1.

### **Minimum Qualifications**

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Proposer shall submit a proposal that clearly demonstrates that it meets the following Minimum Qualifications:

- A. Proposer must have successfully operated an ATM concession for at least five (5) years or more years of continuous experience within the last ten (10) years;
- B. Proposer must demonstrate the ability to comply with all requirements of Attachment 1, ATM Concession Agreement, including its attached exhibits.
- C. Proposer must submit a proposal for rents and transaction fees on Attachment 3 of this RFP
- D. Any Proposer that currently contracts with the County must be in good standing for its proposal to be considered responsive. For the purpose of this RFP, good standing refers to compliance with all contractual provisions, including payment of financial obligations.

Proposer must clearly demonstrate that it meets the Minimum Qualifications as detailed above. Proposers that do not meet these Minimum Qualifications will not be subject to further evaluation.

### **RFP Content**

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The RFP consists of the documents listed below:

- Part 1 – General information and Instructions
- Part 2 – Proposal
- Attachment 1 – Automated Teller Machine Concession Agreement
- Attachment 2 – ATM Available Locations
- Attachment 3 – Rent Proposal Form
- Attachment 4 – General Airport, Passenger and Airline Information
- Attachment 5 – Current ATM Concession Operations

### **RFP Documents**

RFP documents can be obtained from the Department’s website, [www.sacramento.aero](http://www.sacramento.aero). If a Proposer is unable to access this site for a copy, one (1) copy of the RFP can be provided via U.S. mail at no charge by contacting the Concession Department on page 4. Any additional copies will require a processing fee of \$0.25 per page.

### **Timeline for Process**

The table below, subject to change, describes the estimated timeline for this RFP process and awarding an Agreement

<b>Event / Action</b>	<b>Dates and Time</b>
Issuance of RFP	Friday, January 6, 2023
Mandatory Pre-Proposal Meeting	Wednesday, January 25, 2023 at 10:00 a.m. to 12:00 p.m.
Questions Due	Wednesday, February 1, 2023 at 2:00 p.m.
Addenda Issued (if necessary)	Wednesday, February 8, 2023
Proposals Due 2:00 p.m.	Friday, February 17, 2023 at 2:00 p.m.  Any proposal received after this date and time will be returned as non-responsive
Panel Evaluation of Proposals	Week of February 27, 2023
Interviews of Finalists (if necessary)	March 7, 2023 (tentative)
Anticipated Board of Supervisors approval of selection	Tuesday, April 18, 2023
Finalize and Execute Agreement	April 2023
Effective Date of Agreement	Monday, May 1, 2023

## **Mandatory Pre-Proposal Meeting**

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A mandatory Pre-Proposal Meeting is scheduled for **January 25, 2023** at the Sacramento International Airport. This meeting will be held from **10:00 a.m. to 12:00 p.m.** in the Terminal B Administration Meeting Room, 4<sup>th</sup> Floor. The purpose of the meeting is to discuss the requirements and objectives of this RFP. Appropriate Airport representatives will be available to answer questions.

The Department is required by the Americans with Disabilities Act to make all of its public meetings accessible to persons with disabilities.

Proposers must submit any questions or requests for clarification by **2:00p.m., February 1, 2023**, to the contact below. Confirmation will be sent notifying the sender that the questions have been received. All questions will be answered via addendum format on **February 8, 2023**. Participants at the Pre-Proposal Meeting will have an opportunity to ask additional clarifying questions. The Department will not accept questions received after **February 1, 2023**.

Concessions Department  
Renata Daher  
(916) 588-0984  
[DaherR@saccounty.gov](mailto:DaherR@saccounty.gov)

**RSVP for the Pre-Proposal Meeting by January 24, 2023.**

## **Due date, time and location**

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Proposals shall be delivered at the following date, time and location:

Date: February 17, 2023  
Time: 2:00 P.M. Pacific Standard Time  
Location: Sacramento County Department of Airports  
6900 Airport Boulevard  
Sacramento, CA 95837-1109  
Attention: Renata Daher

## **Term and effective date of agreement**

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If a proposal is selected by the Department, it is the Department's intent to award an Agreement with a term of five (5) years. The effective date of the Agreement is expected to be May 1, 2023.

## Part 1 Section B

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### Proposal Rules

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#### Proposal Submittals

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Each proposal shall be typed. The Proposer must:

- Submit one (1) clearly marked original and five (5) copies, along with one (1) CD or flash drive version of the proposal in a sealed envelope at the location and by the deadline stated on page 4.
- Indicate on the face of the envelope the following information:
  - Addressee: See page 4 for complete address
  - The words "Automated Teller Machine Concession Proposal"
  - The name and address of the Proposer submitting the proposal
- Include all the **Proposal Items** listed on page 8
- Include the guaranty deposit as specified on page 17
- Use the forms required and provided in Part 1, Section C and provided in Part 2
- Cover all the items in the management plan instructions (pages 13-15)

**Warning:** *Proposers are warned against making erasures or alterations of any kind to the contents of their proposal. Proposals which contain omissions, erasures, alterations, conditions, or additions not called for may be rejected.*

#### Addenda

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Any clarifications or changes in the RFP requirements or Agreement will be made by a written Addendum to this RFP. An addendum will be issued to answer all questions submitted prior to and during the Pre-Proposal Meeting. The Department is not responsible for any explanation, clarification, interpretation or approval made or given in any manner except by written Addendum.

A copy of each Addendum will be posted at [www.sacramento.aero](http://www.sacramento.aero). Any Addenda so issued are to be considered a part of this RFP document.

**Therefore, receipt of all Addenda issued during this RFP must be acknowledged on the *Administrative Items* form of the Proposal Support Documents (Part 2, page 11) and included with your Proposal.**

## **Modifications**

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Modification of a submitted proposal will be acceptable only if received in writing at the address listed on page 4 prior to the deadline for submitting proposals.

## **Proposers Responsibility**

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The Proposer shall carefully examine the terms of the RFP and shall judge for himself/herself all of the circumstances and conditions affecting his/her proposal.

## **Right to reject and / or cancel**

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The County of Sacramento Board of Supervisors reserves the right to reject any or all proposals received. The Department reserves the right to cancel the award of the Agreement without liability to the Proposer at any time before the Agreement has been fully executed by all parties and approved by the Board of Supervisors.

## **Proposal withdrawal**

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No proposal may be withdrawn until the Agreement has been executed on behalf of both the successful Proposer and the County.

## **Collusion prohibited**

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More than one proposal for the Agreement from any individual, firm, partnership, corporation, or association under the same or different names will not be considered.

Reasonable grounds for believing that any Proposer has a business or financial interest in more than one proposal for the Agreement will cause rejection of all proposals in which such Proposer has such interest. If there is reason to believe that collusion exists among Proposers, none of the participants in such collusion will be considered.

## **Incomplete proposal**

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Failure to answer all questions completely and furnish all information required, as outlined above, will result in disqualification of the Proposer.

## **County's right to investigate**

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The Department reserves the right to conduct a thorough investigation to verify the qualifications and financial resources of each Proposer.

## **Corporate Proposers**

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Corporate Proposers must be authorized, and licensed as required, to do business in California, or shall obtain such authorization, and license as required, prior to expiration of the time period for execution of the Agreement, if awarded the Agreement.

## **Genuine proposal**

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Proposer declares the following by the submission of this proposal:

The proposal is not made in the business or financial interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation.

The Proposer has not directly or indirectly induced or solicited any other Proposer to submit a false or sham proposal, and has not directly or indirectly colluded or agreed with any to submit a sham proposal or to refrain from submitting a proposal.

The Proposer has not directly or indirectly divulged information or data relative to his/her proposal to any other person, partnership, corporation or association, except to such person or persons that have a business or financial interest in the Proposer's general business.

## **Disclaimers**

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1. The Department reserves the right to award an Agreement on the basis of proposals submitted or to negotiate with Proposer for modification of the successful proposal. By submission of a proposal, the Proposer agrees to be legally bound thereby if its proposal is accepted by the Department.
2. The Department shall not be obligated to respond to any proposal submitted, nor shall it be legally bound in any manner whatsoever by the receipt of a proposal.
3. Any Agreement arising out of proposals submitted hereunder (including any negotiations that follow) shall not be binding on the County, its officers, employees, or agents unless duly executed by the County of Sacramento Board of Supervisors or Director of Airports.
4. Statistical information contained in these documents is for informational purposes only. The Department is not responsible for any inaccuracies or interpretations of said data. The Department makes no representations as to the number of future enplanements or amount of future transactions/revenues.



5. The Department reserves the right to extend or cancel the scheduled Proposal due date. Notice of such extension or cancellation shall be sent via an Addendum to this RFP and posted on the Airport website.

6. It is the Proposer's responsibility to deliver the proposal to the appointed place prior to the submittal due date and time. Later delivery of such proposal, regardless of reason, shall disqualify the Proposer.

**Required signatures & related information**

The table below indicates the required signatures and related information required by the County of Sacramento on the **Letter to the Board of Supervisors** (page 12) of the Proposal (Part 2).

<b><i>If the proposal is made by...</i></b>	<b><i>Then signature(s) are required on page 14 from...</i></b>	<b><i>And the proposal shall include...</i></b>
an individual	the individual making the proposal	the name and principal office address and phone number (page 18)
a partnership	at least one of the general partners	the name of the partnership and its post office address (page 20)
a corporation	an officer authorized to execute contracts on behalf of the corporation	<ul style="list-style-type: none"> <li>▪ the name and title of the officer signing on behalf of the corporation;</li> <li>▪ the state in which the corporation is chartered;</li> <li>▪ a certified copy of the bylaws or resolution of the Board of Directors of the corporation showing the authority of the officer signing the proposal to execute contracts on behalf of the corporation (page 21)</li> </ul>
a joint venture	authorized representative of all joint venturers	<ul style="list-style-type: none"> <li>▪ the name and address of joint venture representatives (page 22);</li> <li>▪ document empowering the signatories to execute the proposal and bind the joint venture</li> </ul>

## Part 1 Section C

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### Items to be Included in Proposal

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#### Purpose

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The purpose of the items required for a complete proposal is to provide the Department with evidence that the Proposer has the necessary qualifications and financial resources to fulfill the conditions of the Agreement. Each Proposer must submit the information stipulated below and the applicable forms contained in this RFP.

#### Proposal items

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In order for a proposal to be considered complete, it must contain the following items, filled out in their entirety, as applicable:

- **All of Part 2, Section A - Proposal Support Documents**  
(pages 11 through 17)
  - Administrative Items (addenda received filled in)
  - Letter to the Board of Supervisors
  - Management Plan \*
  - Warranties
  - Guaranty Deposit
- **Applicable Portions of Part 2, Section B - Business Organization**  
(pages 18 through 23)
  - In Section B, all proposers are required to submit a completed *General Information* form, then fill out the remaining forms that pertain to the proposer's type of business entity (*Example: If business entity is a corporation. Fill out the General Information form and the Corporation Statement*).
- **All of Part 2, Section C - Qualifications Statement**  
(pages 24 through 29)
  - Business Experience
  - Financial Information
  - References--form and letter(s) from business references and proposer's bank(s), at least one bank reference is required
- **Additional Information\*** (as desired)
  - Information must be pertinent to the evaluation of the proposal and is limited to 5 pages

*\* The management plan and any additional information submitted with the proposal must include the Proposer's name, the date of proposal and the words "ATM Concession Proposal" on each page of the documents.*

## **Part 1 Section D**

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### **Evaluation of Proposals**

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#### **Evaluation Factors**

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The Department and a selection committee will evaluate proposals to determine which Proposer offers the best ATM concession service program for the Department. The selection committee shall use, but not be limited to, the following criteria, weighted according to the number of points assigned to each criterion, in arriving at its ranking (100 total points available):

- 1.** Qualifications and Relevant Experience - 40 points maximum
  - Demonstrated past and/or current experience
  - Demonstrated past and/or current performance, including financial performance
  
- 2.** Management Plan – 60 points maximum
  - Airport Experience
  - ATM Service Development
  - Proposed rent and fees to customers

All options included in the proposals will be evaluated based on the above criteria and will receive points based on the available 100 points as detailed above.

#### **Relative Weight**

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Evaluation of the overall proposal will bear more weight than any individual part.

#### **Additional Information**

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The Department may request submission of additional information to assist it in evaluating a proposal. The Proposer shall cooperate fully with such a request and provide requested information within two (2) business days.

#### **Analytical techniques**

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The Department may employ such analytical techniques and professional consultants for proposal evaluation as it deems necessary.

## **Board's decision final**

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The Department intends to award the Agreement to the best qualified Proposer making the proposal that will best serve the interest of the Department. Such decision will be made by the County of Sacramento Board of Supervisors, in its sole discretion and such decision shall be final. However, the Department reserves the right to reject any or all proposals prior to any recommendation to County of Sacramento Board of Supervisors.

# PART 2 Proposal

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## Overview

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Part 2 provides the proposal forms for responding to the Department's *ATM Concession Agreement* Request for Proposal (RFP)

## In this Part

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Part 2 contains the forms to be submitted with each proposal. The forms are listed in the table below:

Section	Topic Form	Page(s)
A	Proposal Support Documents	
	• Administrative Items	11
	• Letter to the Board of Supervisors	12
	• Management Plan	13-15
	• Warranties by Proposer	16
	• Guaranty Deposit	17
B	Business Organization	
	• General Information	18
	• DBE Participation	19
	• Partnership Statement	20
	• Corporation Statement	21
	• Joint Venture Statement	22
	• Association Statement	23
C	Qualifications Statement	
	• Business Experience	24
	• Financial Information	25-27
	• References	28-29

## Part 2 Section A

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### Proposal Support Documents

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#### ADMINISTRATIVE ITEMS

##### Affirmation

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By signing the *Letter to the Board of Supervisors* (page 12) and submitting a complete proposal (items listed on page 8), the Proposer gives the following assurances and information and covenants that the Proposer is fully qualified to provide the required ATM concession services at the County Airport System Airports. The Proposer further affirms that the following submitted information is true and accurate and may be relied upon by the Department in evaluating the proposal.

##### FAA General Contract Provisions for Solicitations

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The Proposer shall, at all times during the term of the Agreement, comply with the provisions, of the "FAA General Contract Provisions for Solicitations" (FAA Contract Provisions) and any subsequent revisions, updates or amendments hereto. A copy of the current FAA Contract Provisions is provided as Attachment 1 to this RFP.

##### Instructions

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Each Proposer shall submit one (1) clearly marked original and five (5) copies, along with one (1) CD or flash drive version of the proposal. Each proposal shall be sealed, clearly marked and contain all the items listed on page 8 of Part 1.

##### Receipt of Addenda

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Receipt is acknowledged of the following addenda (Proposer shall list all addenda received and include this page within its proposal):

- 1.
- 2.
- 3.
- 4.

##### Right to Negotiate

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Proposer acknowledges that Department retains the right to negotiate any terms and/or conditions of the Agreement prior to execution of the Agreement by the Board of Supervisors.

The Department reserves the right to negotiate Agreements with companies outside of the RFP process, even if such companies did not participate in the RFP process.

### **Required Information**

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Any additional information submitted with the proposal which are not on the forms provided in Part 2 must include the following information on each page:

- Proposer's name
- Date of proposal
- The words "ATM Concession Proposal"



**Letter to the Board of Supervisors**

Date: \_\_\_\_\_, 2023

TO: Honorable Board of Supervisors  
County of Sacramento, California

SUBMITTED BY:

Proposer: \_\_\_\_\_

Proposer's  
Company: \_\_\_\_\_

Mailing  
Address: \_\_\_\_\_

City, State,  
Zip: \_\_\_\_\_

**SUBJECT: PROPOSAL FOR AUTOMATED TELLER MACHINE  
CONCESSION AGREEMENT WITHIN THE COUNTY AIRPORT SYSTEM**

I, the undersigned, acknowledge that I have: carefully read, examined and understand the RFP, the attached draft Agreement and the ATM Concession opportunity; guarantee our proposal meets or exceeds specifications contained in this RFP document; and warrant that if the proposal is accepted, we will contract with the County of Sacramento in the form of a ATM Concession Agreement in the form attached and comply with the requirements of the RFP and the executed Agreement. Any exceptions are described in detail and all requested information has been submitted as requested.

I also affirm that I am duly authorized to execute the Agreement contemplated herein; that this company, corporation, firm, partnership, or individual has not prepared this proposal in collusion with any other Proposer and that the contents of this proposal including any terms or conditions of said proposal have not been communicated by the undersigned nor any employee or agent to any other Proposer or to any other person(s) engaged in this type of business prior to the official opening of the proposal.

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Print Name

Print Title

Signature

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Print Name

Print Title

Signature

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Print Name

Print Title

Signature

(If the proposal is submitted by a corporation the corporate seal must be affixed to this proposal.)

Seal

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## Part 2 Section A

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### Management Plan

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#### General Requirements

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The selected Proposer will be required to plan, staff and stock supplies at its sole cost, at its locations in accordance with the Agreement. The selected Proposer will also be responsible for installation of the ATMs, as first approved by the Director at the sole cost of the selected Proposer in accordance with the Agreement. The locations of ATMs must be approved prior to installation at the County Airport System locations.

#### Airport Environment

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It is important for Proposer to note that the Sacramento International Airport (SMF) environment presents the Concessionaire with a set of unique challenges which are not typical of an urban shopping center setting.

1. The airport customer has a limited amount of time and must be served quickly.
2. ATMs must be operational 24 hours, 365 days a year.
3. Concessionaires must be able to have sufficient stock at SMF for at least one and one-half days of business.
4. SMF is subject to specific federal security requirements and Concessionaire will be required to abide by all current and future requirements.

#### Installation

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Installation may begin following the:

- Execution of the Agreement by all parties; and
- Contingent upon availability of the space; and

- Approval of Proposer’s ATM design and installation schedule, and
- Proposer’s receipt of all necessary approvals and permits, if applicable, from the Department and County of Sacramento.

See the Agreement for more specific installation/construction requirements.

## **Business Terms**

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### **1. Rent**

For each Agreement Year throughout the Term of the Agreement, Concessionaire shall pay the Department a monthly rent per ATM location.

### **2. Agreement Term**

The Agreement is projected to have a term of five (5) years.

## **Transaction Reporting**

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Concessionaire will be required to provide monthly and annual transaction count reports throughout the term in accordance with the Agreement.

## **Other Requirements**

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Any and all fees and charges of whatever character that may be levied, assessed, or charged by any governmental entity including the County shall be paid directly and in a timely manner by the Selected Proposer.

**Insurance and Agreement Surety** Selected Proposer must purchase and maintain, throughout the Term of the Agreement, insurance and Agreement surety of the types and in the amounts as prescribed in the Agreement.

**No Storage in Common Areas** Selected Proposers are prohibited from storing any of their inventory, equipment, disposables, etc. in common use areas, unless otherwise approved in writing in advance by the Department.

## **Instructions for Management Plan**

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Proposer shall submit the following information in sufficient detail to clearly define the proposed ATM concession and to allow it to be distinguished from other Proposers. Clearly communicate how your organization is the best operator for the Department. Information provided by Proposer should focus on how the Proposer will deliver the following:

In place of this page, each Proposer shall submit with their proposal a management plan to support the requirements of the ATM Concession Agreement (Attachment 1). Such management plan shall include, but is not limited to the following topics:

### **1. Proposer Identification**

A statement identifying the Proposer and provide other general information which the Proposer desires to include regarding the Proposer's business organization.

### **2. Executive Summary**

The executive summary shall list important features of the proposal and must include a statement certifying that the Proposer meets or exceeds the minimum requirements of this RFP.

### **3. Experience of the Proposer**

Describe the Proposer's specific experience with the ownership, management or operation of ATMs. Proposer's experience description must include a representative list of its locations, the duration of time it has owned, managed or operated each location over the past five (5) years. Provide a valid and current reference contact familiar with the Proposer's performance for each location.

### **4. ATM Service Operation**

Proposer shall submit the following information in sufficient detail to clearly define the proposed ATM concession and to allow it to be distinguished from other Proposers. Clearly communicate how your organization is the best operator for the Department. Information provided by Proposer should focus on how the Proposer will deliver the following:

The following ATM design standards are required by the County. Each machine shall:

- Not exceed 4'L x 4'W x 6'H in dimension
- Be a freestanding (kiosk-style) for all locations.
- Meet Americans with Disabilities Act (A.D.A.) regulations for approach height and reach and accommodate use for the visually impaired to include Braille instructional pads
- Be new as of the effective date of the Agreement
- Clearly identify the financial institution supplying ATM services
- Not be used to display any advertising media

The following ATM services shall be offered to customers, including:

- Post in a clearly visible location on each ATM a list of ATM transaction fees, transaction surcharges, or any other fees charged and to whom the transaction fees and/or surcharges apply
- Have a receipt option
- Have a card insert interface.
- Have a posted 24-hour service phone number with procedures for reporting problems
- Remain operational and available for use 24-hours per day, seven (7) days per week (including holidays)
- Provide access to at least three (3) of the following ATM network systems: Star, Cirrus, Explore and/or Plus. \*
- Provide access to each of the following debit card networks: Visa, MasterCard and American Express. \*
- Support electronic banking withdrawals (and may support other transactions)
- Conduct all transactions in United States currency
- Use twenty dollar bills as the primary denomination for withdrawals; other denominations are encouraged (i.e., ten and five dollar bills)

\*Additional network affiliations are encouraged, but will not be considered as substitutes for the minimum affiliations identified above

## **5. Rent Proposal Form**

The Proposer shall provide a Rent Proposal Form (Attachment 3) which shall indicate the Proposer's Rent paid to the Department for each ATM location.

## Part 2 Section A

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### Warranties by Proposer

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#### Qualifications Statement

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The accompanying *Qualifications Statement* forms (Section C) has been completed to the best of Proposer's abilities.

#### County Right to investigate

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By submission of this proposal, Proposer acknowledges that the Department has the right to make any inquiry or investigation it deems appropriate to substantiate or supplement information contained in the *Qualifications Statement*. Proposer authorizes the release of any and all information sought in such inquiry or investigation to the Department.

#### Successful Proposer's ten-day requirement

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The table below indicates what the successful Proposer must do within ten (10) days after receipt of the Agreement when offered for execution by Department:

Step	Action
1	Sign and return the Agreement
2	Provide Security Deposit as required by the Agreement
3	Provide evidence of insurance as required by the Agreement.

## Part 2 Section A

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### Guaranty Deposit

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#### Deposit Required

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Proposer shall submit a Guaranty Deposit in the amount of \$2,000. The Guaranty Deposit shall be in the form of a Certified Check or a Cashier's Check payable to the County of Sacramento.

#### Successful Proposer's guaranty deposit

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The Department will release or return successful Proposer's Guaranty Deposit within thirty (30) days after both parties have executed the Agreement.

If the successful Proposer...	Then the guaranty deposit or bond will be...
executes and returns the Agreement	refunded to the Proposer
fails to execute and return Agreement within ten (10) business days of receipt of Agreement	forfeited to and retained by the Department as liquidated damages

No pleas by the Proposer of error or mistake in the proposal shall be available to the Proposer as a basis for recovery of the deposit.

#### Unsuccessful Proposer's guaranty deposit

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Guaranty deposits from the unsuccessful Proposers will be returned or released within thirty (30) days of execution of an Agreement with the successful Proposer.

In no event, however, shall the unsuccessful Proposer's deposits be held by the Department beyond a period of one hundred eighty (180) days after the submittal due date of the proposals.

## Part 2 Section B

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### Business Organization – General Information

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#### Instructions

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For Section B, all Proposers are required to submit a completed *General Information* form and then fill out the remaining forms that pertain to the Proposer's type of business entity (*Example: If business entity is a corporation fill out the General Information form and the Corporation Statement*).

#### Business Information

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Fill in the following information **exactly** as it is to appear on the Agreement; if operating under a fictitious name, so indicate.

Name of Firm: \_\_\_\_\_

Business Purpose  
of Proposer: \_\_\_\_\_

Principal Office Address: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

#### Form of Business Entity

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Please check the box that describes your business entity.

- |                                      |  |
|--------------------------------------|--|
| <input type="checkbox"/> Individual  | <input type="checkbox"/> Corporation   |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Association | <input type="checkbox"/> Other         |

#### Authorized to Conduct Business

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\_\_\_\_\_The Proposer hereby affirms that the Proposer is authorized to conduct business in the State of California.



## **Part 2 Section B**

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### **DBE Participation**

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#### **Disadvantaged Business Enterprise (DBE) Program**

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The County of Sacramento encourages all business, including those owned and controlled by one (1) or more socially and economically disadvantaged individuals that can provide the desired services, to submit their proposals. If you are currently certified as a DBE, please include a copy of your DBE certification letter along with your proposal. This information will be used for DBE utilization tracking purposes only. If you are a business owned and controlled by one or more socially and economically disadvantaged individuals and you are not currently certified as a DBE firm, but wish to receive information on how to become certified, please contact the State of California, Department of Transportation, Civil Rights Program at either 916-324-1700 or 866-810-6346. You may also visit the following website:

<http://www.dot.ca.gov/hq/bep/index.htm>

Under these circumstances, we request the following information:

1. The name and address of each DBE that will participate in the project.
2. Certification of DBE status for each DBE on the project.
3. Written and signed confirmation from the DBE that it is participating in the project as described in the proposal.

**Part 2 Section B**

**Partnership Statement**

**Partnership Information**

If your business is operating as a partnership, please provide the following information.

Date of Organization: \_\_\_\_\_

Type of Partnership: \_\_\_\_\_ General \_\_\_\_\_ Limited

Business Purpose of Partnership: \_\_\_\_\_

Is Partnership Agreement recorded: \_\_\_\_\_ Yes \_\_\_\_\_ No

Recorded: \_\_\_\_\_  
Date Book Page County State

Has the Partnership done business in California? \_\_\_\_\_ Yes \_\_\_\_\_ No

If so, when? \_\_\_\_\_

**General Partners Information**

Please provide the following information for each General Partner. (Attach additional pages, if necessary.)

General Partner's Name and Address	% of Ownership

## Part 2 Section B

### Corporation Statement

#### Corporate Information

If your business is operating as a corporation, please answer the following questions:

When incorporated? \_\_\_\_\_

Where incorporated? \_\_\_\_\_

Is the corporation authorized to do business in California?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, as of what date? \_\_\_\_\_

Is the corporation held: \_\_\_\_\_ Publicly \_\_\_\_\_ Privately

#### Directors' Information

Please supply the following information for each and every Director. (Attach additional pages, if necessary.)

Director's Name & Address	Principal Business Affiliation (Other than Proposer's directorship)

#### Officers' Information

Please supply the following information for each officer. (Attach additional pages, if necessary.)

Officer's Name	Position

#### Action Required

Please attach a certified copy of the relevant portion of the bylaws or resolution of the Board of Directors of the corporation showing the authority of the Officer signing the proposal to execute contracts on behalf of the corporation.

**Part 2 Section B**

**Joint Venture Statement**

**Joint Venture Information**

If your business is operating as a joint venture, please provide the following information.

Is Joint Venture Agreement recorded?  Yes  No

Recorded: \_\_\_\_\_  
Date Book Page County State

Purpose of Joint Venture: \_\_\_\_\_

Has Joint Venture done business in California?  Yes  No

When? \_\_\_\_\_

**Ownership Information**

Provide the name and address of each Joint Venturer and percentage of ownership of each. (Attach additional pages, if necessary.)

Joint Venturer's Name and Address	% Of Ownership

**Action Required**

Please attach the document empowering the signatories to execute the proposal and bind the joint venture.

## Part 2 Section B

### Association Statement

#### Association Information

If the organization submitting the proposal is operating as an Association, please provide the following information.

Is Association registered with the State of California?

Yes  No

Purpose of Association: \_\_\_\_\_

Has the Association done business in California?

Yes  No

When? \_\_\_\_\_

#### Officers' Information

Provide the name and address of each Officer. (Attach additional pages, if necessary.)

Officer's Name and Contact Information	Position currently held

#### Action Required

Please attach the document empowering the signatories to execute the proposal and bind the Association. Also include the Association bylaws, if applicable.

## Part 2 Section C

### Qualifications Statement - Business Experience

#### ATM Concession Experience

The Proposer has managed or operated an ATM Concession Agreement at the following locations:

Date: From \_\_\_\_\_ To \_\_\_\_\_

Location: \_\_\_\_\_

Contact's Name: \_\_\_\_\_

Contact's Phone number: \_\_\_\_\_

Date: From \_\_\_\_\_ To \_\_\_\_\_

Location: \_\_\_\_\_

Contact's Name: \_\_\_\_\_

Contact's Phone number: \_\_\_\_\_

(use additional sheet for other locations not to exceed five (5) total locations)

#### Current Litigation

The Proposer \_\_\_\_\_ is \_\_\_\_\_ is not currently involved in litigation. (If the answer is in the affirmative, please identify the business location and give such information as is required to explain the circumstances.)

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## Part 2 Section C

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### Financial Information

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#### Disclosure of financial information

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In the event the Proposer requests that the County of Sacramento receive and maintain any of the following financial information in confidence, the Proposer understands that the County has reservations as to whether any such information may be exempt from disclosure under the California Public Records Act (Government Code Sections 6250, et seq.).

The Proposer agrees that the County may make such disclosure or reproduction of such financial information as is deemed necessary or convenient by County, its officers, agents, or employees, for County's use in proposal evaluation and comparison; provided however, if any person makes a request as contemplated by the Public Records Act to review or be provided with copies of such financial information or any part thereof, and County denies such requests, immediately upon notification thereof, the Proposer agrees to defend County and its officers, agents, and employees against any action resulting from denial of such request and agrees to hold County and its officers, agents and employees harmless from any costs, expenses and damages that may result.

If the Proposer fails to promptly provide such defense, the County, its officers, agents, and employees shall be free to grant such requests, and the Proposer shall be deemed to have waived any cause of action whether in law or in equity, that it may have against the County respecting such disclosure.

#### Hold Harmless

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The Proposer agrees it shall indemnify and hold harmless the County, its officers, agents, and employees from any and all claims, costs, liabilities, or damages, including attorney's fees and court costs resulting from County's or Proposer's acts or omissions pursuant to its disclosure under the California Public Records Act.

#### Submittal of financial statements

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For the purpose of establishing a clear picture of the Proposer's financial capability and current fiscal operating position, the Proposer herewith submits financial statements including profit and loss statements for the two most recently completed fiscal years.

Each such statement either bears the certification of the independent Certified Public Accountant who originally audited and certified such

statements or the signature of the Proposer's Chief Financial Officer if such statements are unaudited.

**Bond or surety cancelled or forfeited**

---

The Proposer \_\_\_\_\_ has \_\_\_\_\_ has never had a bond or surety cancelled or forfeited. If the response is in the affirmative, state the following:

Name of Bonding Company: \_\_\_\_\_

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

Amount of Bond: \_\_\_\_\_

Reason for cancellation or forfeiture: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Bankruptcy**

---

The Proposer \_\_\_\_\_ has \_\_\_\_\_ has never been adjudged a bankrupt (Chapter 7), or petitioned the court for relief under the Bankruptcy Code or Act for either business reorganization (Chapter 11) or the Wage Earner's Plan (Chapter 13). If the response is in the affirmative, state the following:

Date petition filed: \_\_\_\_\_

Case number and jurisdiction: \_\_\_\_\_

Amount of liabilities and debts: \_\_\_\_\_

Date of discharge or successful completion of reorganization or wage earner's plan: \_\_\_\_\_

Current status: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Unfavorable audit**

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The Proposer \_\_\_\_\_ has \_\_\_\_\_ has never received an unfavorable audit of its financial performance in conjunction with contractual agreements. Unfavorable here is defined as an error in payment equal to or in excess of three percent (3%). If the response is affirmative, please state the following:

Name of Business: \_\_\_\_\_

Location of business: \_\_\_\_\_

Date of audit: \_\_\_\_\_

Explanation of audit discrepancy: \_\_\_\_\_

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# Part 2 Section C

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## References

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### Business References

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The Proposer submits herewith the following list of persons or firms (at least three) with whom the Proposer has conducted financial transactions crucial to its taxicab business during the past two years and who may be contacted by the Department. If firms are used, give the name of the department and/or person whom we may contact.

Proposers are to attach a letter of reference from each of the persons or firms listed below.

#### Business Reference #1

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

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

Firm/Department: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

#### Business Reference #2

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

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

Firm/Department: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Business Reference #3**

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

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

Firm/Department: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Bank References**

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The Proposer herewith submits a letter from each of the following bank references indicating the Proposer's credit standing and the Proposer's ability to undertake the operation of the proposed Agreement.

*Important: At least **one** bank reference and letter shall be submitted.*

**Bank Reference #1**

Bank Name: \_\_\_\_\_

Branch: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Bank Reference #2**

Bank Name: \_\_\_\_\_

Branch: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Bank Reference #3**

Bank Name: \_\_\_\_\_

Branch: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

# **ATTACHMENT 1**

## ***Automated Teller Machine Concession Agreement County of Sacramento Department of Airports***



## **DEPARTMENT OF AIRPORTS**

### **AUTOMATED TELLER MACHINE CONCESSION AGREEMENT**

**COMPANY NAME**

**AUTOMATED TELLER MACHINE CONCESSION AGREEMENT  
COUNTY OF SACRAMENTO DEPARTMENT OF AIRPORTS**

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## **EXHIBITS**

- A - CONCESSIONAIRE'S PROPOSAL
- B - ATM LOCATIONS
- C - INSURANCE REQUIREMENTS
- D - FAA ASSURANCES
- E - FAA CONTRACT PROVISIONS

***Automated Teller Machine Concession Agreement  
Sacramento County Department of Airports***

**THIS AGREEMENT** is made and entered into by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California, (hereafter "County"), and XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX, (hereafter "Concessionaire").

**WHEREAS**, Sacramento County Department of Airports (hereafter "Department") operates Sacramento International Airport, Sacramento Executive Airport, Mather Airport, and Franklin Field, (hereafter, "County Airport System"), for the use and benefit of the public; and

**WHEREAS**, County requires special services for the professional operation of an *Automated Teller Machine Concession* at airports within the County Airport System; and

**WHEREAS**, County has solicited competitive proposals for provision of such services; and

**WHEREAS**, Concessionaire is engaged in provision of such services; and

**WHEREAS**, pursuant to such solicitation, Concessionaire has submitted a proposal dated XXXXXXXXXXXX, under the name of XXXXXXXXXXXXXXXXXXXXXXXXXXXX (a true copy of such proposal attached hereto and marked Exhibit A, is made a part hereof by this reference); and

**WHEREAS**, County has duly evaluated all proposals received; and

**WHEREAS**, on the basis of Concessionaire's proposal, County has selected Concessionaire for award of this Agreement; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Sacramento has determined that a limited right to operate an *Automated Teller Machine Concession* is necessary for the proper operation of the County Airport System, and to further the policies and objectives stated in Division 9, Part 1, Chapter 4, Article 4.5 of the Public Utilities Code; and

**NOW, THEREFORE**, for and in consideration of the promises, conditions and covenants set forth hereunder, County and Concessionaire hereby agree as follows:

## **Article 1 Definitions**

As used herein, the following words and phrases shall have the meanings set forth below:

### **1.01 Agreement Year**

"Agreement Year" shall mean a period of twelve (12) consecutive calendar months, beginning April 1st and ending March 31st.

### **1.02 Airside**

"Airside" means the airfield and the areas beyond security checkpoints and passport and customs control in the Airport terminals.

### **1.03 Anniversary Date**

"Anniversary Date" shall mean the first day of an Agreement Year.

### **1.04 ATM Transaction Fee**

"ATM Transaction Fee" means all fees charged to patrons for activities conducted through the use of Concessionaire's ATMs at the County Airport System.

### **1.05 Automated Teller Machine (ATM)**

"Automated Teller Machine" means the machine used to conduct Electronic Banking Transactions.

### **1.06 Concessionaire**

"Concessionaire" means the airport tenant or lessee, or its authorized representative(s), whose business is non-airline related, who sells goods and/or services for a profit, and who is performing under this Agreement.

### **1.07 County**

"County" means County of Sacramento, a political subdivision of the State of California, as represented by the Sacramento County Board of Supervisors.

### **1.08 County Airport System**

"Sacramento County Airport System "or "County Airport System" shall mean Sacramento International Airport, Sacramento Executive Airport, Mather Airport, Franklin Field, and any other aviation facility as may be from time to time owned or operated by County and designated by County to be part of the Airport System.

### **1.09 CPI**

"CPI" means the Consumer Price Index published by the United States Bureau of Labor Statistics, for all commodities for All Urban Consumers in the All U.S. Cities Average Index (index base 1982-84=100).

### **1.10 Day**

"Day" means a calendar day of twenty-four (24) hours measured from midnight to the next midnight.

### **1.11 Director**

"Director" means the Director of Airports of the Sacramento County Department of Airports, and his/her authorized representatives.

### **1.12 DOT**

"DOT" means the Department of Transportation of the United States government and any federal agency succeeding to its jurisdiction.

### **1.13 Electronic Banking**

"Electronic Banking" means activities conducted through the use of an ATM for the purpose of executing banking Transactions (i.e., withdrawals, balance inquiries and transfers).

### **1.14 FAA**

"FAA" means the Federal Aviation Administration of the United States government and any federal agency succeeding to its jurisdiction.

### **1.15 Fiscal Year**

"Fiscal Year" means July 1 – June 30.

### **1.16 Leased Premises**

"Leased Premises" means those certain premises at the airport, more particularly described in Section 2.01, and shown on Exhibit B.

### **1.17 LLC**

"LLC" means limited liability company.

### **1.18 Rent**

"Rent" means the monthly base rent per Automated Teller Machine, paid to the County each month of the Agreement.

### **1.19 Rental Commencement Date**

"Rental Commencement Date" means the date the term commences.

**1.20 Sign**

"Sign" means any advertising sign, billboard, identification sign or symbol, poster, or other similar device, regardless of content.

**1.21 State**

"State" means the State of California.

**1.22 Space Assignment**

"Space Assignment" is the assigned space beneath and surrounding Concessionaire's ATMs, more particularly described by Section 2.03.

**1.23 Transaction**

"Transaction" shall mean any successful single Transaction at Concessionaire's ATMs. Each time a customer enters their personal identification number and executes Electronic Banking activities shall be considered a single Transaction.

**1.24 Transaction Fee**

"Transaction Fee" means the fees paid to Concessionaire by customer based on Transactions.

**1.25 TSA**

"TSA" means the agency of the U.S. Department of Homeland Security that oversees the security of the nation's air transportation system and any federal agency succeeding to its jurisdiction.

*Remainder of page intentionally left blank*

## **Article 2 Special Conditions**

### **2.01 Operational Rights and Privileges, and Restrictions**

County grants to Concessionaire the nonexclusive right, license, privilege and duty to operate an ATM concession at the County Airport System as of the effective date of this Agreement. The County reserves the right to enter into agreements with other Concessionaire(s) to provide financial services at the County Airport System.

Concessionaire is prohibited from using ATMs at the County Airport System to:

- A. Dispense foreign currency.
- B. Offer gambling of any kind.
- C. Display advertising or brochures, except advertising on ATM screen for Concessionaire's products only.

Concessionaire is also prohibited, under this Agreement, to staff the ATM locations, conduct other business, provide other services or sell any type of merchandise.

### **2.02 Term**

The term of the Agreement shall be for a period of five (5) years commencing May 1, 2023, and shall terminate on April 30, 2028.

### **2.03 Space Assignment**

County assigns to Concessionaire the described space in its "as is" condition as detailed on Exhibit B.

### **2.04 Compensation to County**

#### **A. Monthly Base Rent**

On the first day of each and every calendar month throughout the term of this Agreement, Concessionaire shall pay to County, at the Office of the Director, a Monthly Base Rent for the initial Agreement Year as follows:

\$XXXX per month per each ATM location

Such Monthly Base Rent for subsequent Agreement Years shall be adjusted each July 1 as described in Section 2.04 B. hereinbelow.

**B. Rental Increases**

Concessionaire shall pay rental increases, calculated as follows:

Each July 1, Concessionaire's Monthly Base Rent shall increase based on the prior Agreement Year's Monthly Base Rent plus an additional amount calculated as follows:

The prior Agreement Year's Monthly Base Rent shall be adjusted based upon annual percentage increases in the Consumer Price Index for All Urban Consumers (CPI-U: Selected Areas, All Items Index (1982 - 1984 = 100)) for the San Francisco - Oakland - San Jose, CA area published by the Bureau of Labor Statistics of the U.S. Department of Labor (hereinafter referred to as "CPI-U") for the most recent twelve (12) month period for which such figures are available. The CPI-U for the first full calendar month of the Term of this Agreement will be used as the base month in determining the CPI-U adjustments.

In the event the CPI-U is not published during the base month or any month of adjustment, then the CPI-U for the next succeeding month in which the CPI-U is published will be used in determining CPI-U adjustments. If the Bureau of Labor Statistics should cease to publish the Consumer Price Index in its present form, calculated upon its present basis, the parties agree to accept a comparable Index measuring costs of living increases for the closest metropolitan area to Sacramento, CA, published by an agency of the United States Government or by a recognized financial institution or economic periodical, as determined by the County. In the event of the expiration or other termination of this Agreement on a date other than the completion of an Agreement Year, the Support Space Charge shall be prorated as appropriate based on three hundred sixty-five (365) days in a year.

Any decrease in the CPI shall not result in any decrease in Concessionaire's rental obligation hereunder.

**2.05 Scope of Services**

**A. Authorized Transactions**

Each ATM shall support cash withdrawals or advances through the network affiliations identified in Section 2.05, E., and may support additional Electronic Banking services including, but not limited to, account balance inquiries and transfers. Any Transactions other than Electronic Banking are not authorized. All Transactions shall use United States currency



The twenty dollar bill shall serve as the primary denomination used to conduct withdrawals, but additional denominations, i.e., five and ten dollar bills are acceptable. No rights, implied or otherwise, are granted hereunder for conducting Transactions with foreign currency.

**B. Service and Maintenance**

Concessionaire shall appoint a full-time experienced manager fully authorized to represent and act on behalf of Concessionaire. Concessionaire shall provide the name and number of a service representative available on a twenty-four (24) hour basis.

Concessionaire shall routinely service each ATM, so they:

1. remain at all times in a properly stocked, cleaned and serviceable condition.
2. remain ready for use twenty-four (24) hours a day, seven (7) days per week.
3. present a well-maintained and clean appearance.

Concessionaire shall also:

1. provide and display at each ATM location all written directions necessary to instruct customers in the operation of the ATM.
2. provide, either through the ATMs electronic display or affixed to the ATM, information for obtaining ATM services and/or refunds.
3. conduct the appropriate preventative maintenance necessary to ensure the ATMs remain in a fully operational condition.

Concessionaire shall be solely responsible for any and all costs associated with the servicing and maintenance of each of Concessionaire's ATMs. In the event of a reported problem, Concessionaire's personnel shall make commercially reasonable best efforts to be available at the airport to service or repair the ATM within two (2) hours of the time of request. If an ATM must be removed from the airport to complete required repairs or servicing, Concessionaire shall make best commercially reasonable best efforts to have a serviceable replacement must be installed for the duration of the removal, within three (3) business days.

**C. Security Plan**

Prior to commencement of the Agreement, Concessionaire shall develop, and submit to the Director, a security plan detailing the procedures for its employees or contractors handling currency during servicing and operations of the ATMs (including parking arrangements).

Such plan shall meet the Director's approval. If any conflicts arise between Concessionaire's security plan and the airports' security plan or governing regulations, or for any other reason, Concessionaire's plan shall be modified accordingly to meet the Director's approval.

**D. Number and Location of Machines**

Concessionaire shall install, operate and maintain one ATM at each location identified on Exhibit B. The Director shall have the authority to amend, from time to time, the number and/or location of ATMs as detailed in Section F, hereinbelow.

**E. Design Standards and Service Features of ATMs**

Concessionaire's ATMs shall each meet the following design standards:

1. Meet County approved design standards
2. Not exceed 4'L x 4'W x 6'H in dimension, excluding signs on ATM machine.
3. Be a freestanding (kiosk-style) for all locations listed in Exhibit B
4. Meet Americans with Disabilities Act (A.D.A.) regulations for approach height and reach and accommodate use for the visually impaired to include Braille instructional pads
5. Be new as of the effective date of the Agreement
6. Clearly identify the financial institution supplying ATM services
7. Not be used to display any advertising media, except advertising on ATM screen for Concessionaire's products only.

The following ATM services shall be offered to customers, including:

1. Post in a clearly visible location on each ATM screen, on each ATM, a list of ATM Transaction Fees, transaction surcharges, or any other fees charged and to whom the ATM Transaction Fees and/or surcharges apply
2. Have a receipt option
3. Have a card insert interface
4. Have a posted 24-hour service phone number with procedures for reporting problems
5. Remain operational and available for use 24-hours per day, seven (7) days per week (including holidays)
6. Provide access to at least three (3) of the following ATM network systems: Star, Cirrus, Explore and/or Plus. \*
7. Provide access to each of the following debit card networks: Visa, MasterCard and American Express. \*
8. Support electronic banking withdrawals (and may support other transactions)

9. Conduct all transactions in United States currency
10. Use twenty dollar bills as the primary denomination for withdrawals; other denominations are encouraged (i.e., ten and five dollar bills)

\* ***Additional network affiliations are encouraged, but will not be considered as substitutes for the minimum affiliations required above.***

#### **F. Addition, Removal and Relocation of Machines**

Concessionaire shall not add, remove or relocate any ATM without the prior written approval of the Director.

The Director reserves the right to require Concessionaire to relocate any of its ATMs at the airports, upon thirty (30) calendar days advance written notice. In the event of an emergency (in the Director's sole determination), the advance written notice period described above shall be waived. Concessionaire must comply immediately to emergency requests for removal or relocation of ATMs.

Upon sixty (60) calendar days advance written notice from the Director, Concessionaire shall install, and therefore operate, stock and maintain in accordance with all the provisions of this Agreement, such additional ATMs, as may be requested by the Director. The Director shall not require installation of an ATM in a new location if Concessionaire establishes, to the Director's reasonable satisfaction, that such new ATM would not be economically viable. Concessionaire shall not remove ATMs as listed in Exhibit B of this Agreement, without Director approval.

Any such installation of an additional ATMs, removal or relocation required by the Director or requested by Concessionaire shall be at Concessionaire's sole cost and expense; provided that any relocations required by the Director or the County shall be at the County's cost and expense.

#### **G. Ownership of ATMs**

All ATMs and related equipment placed and installed by Concessionaire at the locations within the County Airport System shall remain the personal property of Concessionaire.

#### **H. Inspection**

The Director shall have the right to inspect the ATMs or any associated equipment of Concessionaire. If any of the ATMs or associated equipment are for any reason found to be unsatisfactory, in the sole opinion of the Director, Concessionaire shall take corrective action within ten (10) days of the written notice by the Director.

#### **I. Penalties for Non-Performance of Scope of Services**

In addition to any other remedy available to County for Concessionaire's non-performance of the Scope of Services, County reserves the right to impose financial penalties.

Provided that Concessionaire fails to satisfy the requirements of Section 2.05 B hereinabove, as determined solely by the Director, the Director is authorized to impose a \$100.00 penalty for the first occurrence in a given month, \$25.00 for each occurrence thereafter in the same given month.

If the Director imposes such penalties, Concessionaire will receive written notification of the penalty(ies) with detail of the date(s)/time(s) the violation(s) occurred and the total amount of the penalty imposed. Concessionaire will receive an invoice for the penalty(ies) following the issuance of the notification.

## **2.06 ATM Transaction Fees**

Prior to commencement of the Agreement, Concessionaire shall notify the Director, in writing, of Concessionaire's proposed ATM Transaction Fees. All ATM Transaction Fees charged by Concessionaire are subject to approval by the Director. Concessionaire shall notify the Director not less than thirty (30) days in advance of any proposed increases in ATM Transaction Fees. ATM Transaction Fees shall be clearly displayed on the exterior of each ATM unit, or on the ATM screen/monitor, informing customers of the amount of any such fees and who these fees apply to.

Concessionaire agrees to maintain a policy of charging no more than the average per transaction fee of other (*Concessionaire's name*) ATMs operated within the Sacramento Metropolitan Area. If the Director determines that the ATM Transaction Fees charged by Concessionaire exceeds the average ATM transaction fees charged by other (*Concessionaire's name*) ATMs in the Sacramento Metropolitan Area, the Director shall have the right to require Concessionaire to reduce its ATM Transaction Fees.

To determine the average ATM Transaction Fee for (*Concessionaire's name*) ATMs operated within the Sacramento Metropolitan Area, the Director will choose and survey no fewer than six (6) (*Concessionaire's name*) ATMs operating within the Sacramento Metropolitan Area. The survey will identify the per transaction fees imposed by (*Concessionaire's name*) on ATM customers conducting Transactions similar to those conducted by the airports traveling public and calculate the average.

## **2.07 Improvements By Concessionaire**

Prior to installing ATMs, Concessionaire shall submit its plans (drawings, sketches, designs, and dimensions of ATMs) for installation to the Director. Concessionaire accepts full responsibility for installing and maintaining ATMs in accordance with Concessionaire's plans, as approved by the Director, at Concessionaire's sole cost and expense, including any electrical distribution, wiring or conduit required to install and operate the ATMs, and any telecommunications equipment required for the operation of its concession. Said installation and maintenance shall be in accordance with this Agreement, and all applicable laws, regulations, and permit requirements, including those of the County.

Any review or approval by the Director of Concessionaire's plans or any inspection by County of Concessionaire's work or materials shall not be deemed to constitute a waiver or release by County of any obligation or responsibility of Concessionaire hereunder, or an assumption of any risk or liability by County with respect thereto, and Concessionaire shall make no claim against County on account of such review, approval, or inspection.

## **2.08 Utilities**

County shall supply the public area in which Concessionaire's ATMs are located with light and power for ATMs throughout the term of the Agreement. However, Concessionaire shall be responsible for compliance with minimum light levels at its ATMs, in accordance with California State Assembly Bill 244, "Automated Teller Machine User Safety," in locations where ambient lighting does not meet the required levels.

## **2.09 Performance Bond**

Concessionaire agrees that upon the execution of this Agreement, and on each Anniversary Date throughout the term of this Agreement thereafter, it will, at its own expense, deliver to County a performance surety in the form of a surety bond or bonds in an amount equal to three (3) times the Monthly Base Rent as described in Section 2.04, currently (\$ XXXX ) payable to the "County of Sacramento," naming said County as obligee and issued by a surety company or surety companies acceptable to County and in such form as approved by County, which surety bond or bonds will be renewed annually at the expense of Concessionaire.

Said surety bond or bonds shall be kept in full force and effect during the term of this Agreement to ensure the faithful performance by Concessionaire of all the covenants, terms and conditions of this Agreement, including the payment of all consideration provided herein. The surety company issuing said bond or bonds shall provide notice to County in writing by certified mail at least forty-five (45) days prior to an anniversary date of its intention not to renew said bond or bonds.

In lieu of such surety bond or bonds, Concessionaire may deposit with County in a form acceptable to County an irrevocable letter of credit ("at sight" draft) acceptable to County, in the above amounts as security for the faithful performance by Concessionaire as provided herein.

Said performance surety shall continue to be retained by County as security for the timely performance by Concessionaire of each and every obligation of it hereunder, and shall not be subject to the claim of any creditor of County or Concessionaire.

Within fifteen (15) calendar days following application of said performance surety to correct any default by Concessionaire, or to pay any amount due or owing upon expiration or earlier termination of this Agreement, County shall provide Concessionaire with an accounting of such application.

## **2.10 Liquidated Damages from Late Payments**

If Concessionaire is in arrears for seven (7) days or more following the due date of any amount payable to the County herein, the parties acknowledge that additional clerical, accounting and other work will be performed which would not otherwise be needed absent the late payment. In addition, because the actual charges as a result of the late payment are difficult to identify, the parties hereby agree that Concessionaire shall pay as a reasonable charge, liquidated damages for the late payment in the amount of eighteen percent (18%) annual percentage rate, applicable from the date such payment was due to the date of actual payment. If the maximum charge permitted by law is less than the foregoing amount, then the rate shall be such amount determined to be the maximum legal amount. This late charge will be calculated and posted on a monthly basis, and shall be prorated by the number of days in the month.

## **2.11 Early Termination**

On thirty (30) days written notice, County may terminate this Agreement prior to expiration of the term hereof upon the happening of one or more of the following events:

1. Concessionaire is in default in performance of any promise, term, condition or covenant required of it hereunder, provided Concessionaire fails to cure such default within thirty (30) calendar days following receipt of written notice of such default from County;
2. Any substantial change in the ownership or proprietorship of Concessionaire which, in the opinion of the County, is not in the best interest of the County or public;

Failure to serve notice of early termination upon the happening of any of the events described in this Section 2.11 shall not operate to bar or destroy County's right to thereafter declare such termination upon the subsequent happening of any such event.

The written notice of early termination shall state the basis of such termination, and the effective date thereof. Upon the effective date of such termination, County may take possession of the assigned space without further notice or demand to Concessionaire and Concessionaire shall have no further rights or interest in the ATM concession.

## **2.12 Removal of Concessionaire's Equipment**

If Concessionaire is not in default as to the payment of any amount payable to County hereunder, Concessionaire may remove its equipment from the Space Assigned upon expiration or sooner termination of this Agreement. If Concessionaire does not elect, or otherwise fails to remove the same, or any part thereof, within five (5) business days following termination of this Agreement, County may, at its option, perform such removal at Concessionaire's sole cost and expense.

Concessionaire shall surrender the Space Assigned to County in the same or better condition as when occupancy commenced, reasonable wear and tear excepted.

Ownership of the ATMs and all cash located therein shall at all times be and remain vested in the Concessionaire. The ATMs shall not under any circumstances constitute, be or be deemed to be fixtures annexed to the Premises and such ATM shall at all times be and remain free and clear of any claims, liens, or encumbrances created by County. Concessionaire shall have the right, with County's prior written consent (not to be unreasonably withheld) at any time and from time to time, to alter, modify and/or change the appearance, services, products, features and/or functionality of the ATM(s) as allowed within the terms, conditions and provisions of the Agreement.

## **2.13 Signs**

Concessionaire shall not erect, maintain, or display any sign on the assigned space, or elsewhere at the airports within the County Airport System, without the prior written consent of the County, which shall not be reasonably withheld. Notwithstanding anything in the Agreement to the contrary, Concessionaire shall have the right, without consent of County, to install signs which are required by law or regulation, or to effect change which is consistent with Concessionaire's corporate standard with respect to the name, logo or color scheme displayed on its signage, provided that the size of such signage does not increase, and provided that such change is coordinated with the County. Concessionaire shall submit drawings, sketches, designs, and dimensions of such signs to the County when

requesting such approval. All such signs shall be consistent with County's general sign policy for the County Airport System. Any condition, restriction, or limitation as to use or appearance of such signs as may be stated by the County in writing shall become a part of this Agreement, as if specifically set forth herein.

## **2.14 Advertising**

Concessionaire shall not install or display, without the prior written approval of the Director, any sign, or other display of advertising media, including materials supplied by manufacturers of equipment. Concessionaire understands the County has a contract for in-terminal advertising services.

## **2.15 Monthly Reports**

Concessionaire shall prepare and maintain an adequate set of records, in a format and detail acceptable to the Director, documenting the number of all Transactions conducted at the airport pursuant to this Agreement. All such reports required of Concessionaire shall be prepared in accordance with generally accepted accounting principles and reported on a cash basis.

Concessionaire shall allow County and its duly authorized representatives to examine at all reasonable times the books, accounts and records of Concessionaire relating to this Agreement for the purpose of verifying the correctness of statements submitted by Concessionaire hereunder.

On or before the twentieth (20th) day of each month, Concessionaire shall submit to the Director a true and correct statement, in a format and detail as required by the Director, of the total number of Transactions conducted at each ATM from these ATMs for the preceding calendar month.

The monthly report shall include, at a minimum, the following information:

1. Total number and type of Transactions at each ATM location
2. Total ATM Transaction Fees charged by Concessionaire per Transaction type
3. Total Rent due to County, if applicable
4. Any other information relating to performance of the Agreement that may be requested by the Director

If Concessionaire is delinquent in furnishing to the County any monthly report required under this Agreement, Concessionaire shall pay the County a Ten Dollars and 00/100ths (\$10.00) late fee per day, that the monthly report is delinquent, as liquidated damages for the additional administrative costs incurred by the County in processing, reviewing, and demanding the delinquent monthly report. The parties have agreed that this is a fair and reasonable estimate of the County's costs incurred in processing a



delinquent monthly report. Imposition of such a late fee shall not constitute a waiver of any other remedies available to the County due to Concessionaire's failure to timely provide the monthly reports or pay the report late fee.

## **2.16 Audit**

Concessionaire shall, upon thirty (30) days written notice, make all or any part of its records pertaining to this Agreement available to the Director, or any other authorized representative of County during normal business hours throughout the term of this Agreement, for the purposes of inspection, copying, or audit. Except as otherwise expressly provided herein, the cost of such inspection, copying or audit shall be borne by County.

In the event that the results of any such audit by County show any discrepancy of Rent payable to the County as compared to the amount of Rent actually paid to County, Concessionaire shall pay County the difference in payments or County shall reimburse Concessionaire, as the case may be, within thirty (30) calendar days following discovery of such discrepancy.

Provided, however, in the event that any such discrepancy exceeds the amount of such Rent reported and paid by Concessionaire to County by more than two percent (2%), Concessionaire shall reimburse County for all of County's costs in connection with such audit.

## **2.17 Retention of Records**

Concessionaire shall keep available, for a period of two (2) years after each Agreement Year of operation, the books and records of account of Concessionaire for such year, showing the total number of Transactions, ATM Transaction Fees charged by Concessionaire, and Transaction Fees paid to County from business conducted under this Agreement, the deductions therefrom, and other pertinent information required by the provisions pursuant to this Agreement. Such books and records of account shall be made available to County or its duly authorized agents or auditors during the regular business hours of County at the airports for the purpose of verifying the information set forth in any annual Financial Statements or for the purpose of verifying compliance by Concessionaire with the terms of this Agreement.

## **2.18 Indemnification**

To the fullest extent permitted by law, Concessionaire shall indemnify, defend, and hold harmless County, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents, (collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental

thereto (collectively "Claims"), including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or resulting from the acts or omissions of the Concessionaire, its officers, employees, or agents, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Concessionaire, or for which the Concessionaire is legally liable under law excepting only such injury, death, or damage, to the extent it is caused by the negligence of an Indemnified Party. Concessionaire shall not be liable for any Claims arising from the sole negligence or willful misconduct of an Indemnified Party where such indemnification would be invalid under Section 2782 of the Civil Code.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Concessionaire or the Concessionaire's Subcontractors

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

## **2.19 Insurance**

Throughout the term of this Agreement, Concessionaire for itself and its officers, representatives, agents, employees, , contractors, subcontractors, licensees, , and suppliers shall maintain or cause to maintain in full force and effect the forms and amounts of insurance specified in EXHIBIT C.

In the event Concessionaire does not have the required certificate(s) of insurance and/or binder(s) evidencing the proper insurance coverage, or the required insurance coverage lapses, this Agreement shall be terminated at County's option by the County giving written notice to Concessionaire.

## **2.20 Notice of Claims and Suit**

County and Concessionaire shall each give the other prompt and timely written notice of any personal injury or accident claim in excess of one thousand dollars and 00/100 (\$1,000.00), and of any lawsuit coming to its knowledge, when either such claim or lawsuit arises out of or is in any way connected with the operations of Concessionaire hereunder, the construction or operation of the airports by County which in any way, directly or indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Agreement.

Such notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of such claim by an officer, agent or employee of either party, and, if given within ten (10) calendar days following the date of service of process upon either party with respect to any such lawsuit.

## **2.21 Notices**

Any notice, demand, request, consent or approval required pursuant to this Agreement shall be in writing and either served personally or sent by U.S. Mail, overnight courier. Such matters shall be addressed to the other party at the following address:

**When to County:**

Sacramento County Department of  
Airports  
Director of Airports  
6900 Airport Boulevard  
Sacramento, CA 95837-1109

**When to Concessionaire:**

COMPANY NAME  
ATTENTION: CONTACT  
Company Mailing Address  
City State ZIP

(and Courier Address if  
different than above)

or to any other address as either party may designate to the other by giving fifteen (15) days prior written notice. All communications shall be deemed received upon delivery if personally delivered or when delivered by recognized overnight delivery service, or within five (5) business days following deposit in the mail, if sent by mail.

If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified in this Section. All notices shall be effective upon receipt and shall be deemed received upon delivery, if personally delivered.

Unless otherwise notified by the County, payments and communications regarding billing and invoicing shall be directed to the following address:

Airport Accounting  
Sacramento County Department of Airports  
6900 Airport Boulevard  
Sacramento, CA 95837-1109

*Remainder of page intentionally left blank*

## **Article 3 General Conditions**

### **3.01 Accord and Satisfaction**

No payment by Concessionaire or receipt by County of a lesser amount than the Rent, fees and/or charges due to be made by Concessionaire hereunder shall be deemed to be other than on account of the Rent, fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as Rent, fees and/or charges shall be deemed an accord and satisfaction, and County may accept such check or payment without prejudice to County's right to recover the balance of such Rent, fees and/or charges or to pursue any other remedy provided in this Agreement.

### **3.02 Additional Fees, Charges and Rentals**

Concessionaire shall pay County additional fees, charges and rentals in the event of any of the following:

1. If County has paid any sum or sums, or has incurred any obligation or expense, for which Concessionaire has agreed to pay or reimburse County, or for which Concessionaire is otherwise responsible;
2. If County is required or elects to pay any sum or sums, or incurs any obligation or expense, because of the failure, neglect or refusal of Concessionaire to perform or fulfill any of the promises, terms, conditions or covenants required of it hereunder;  
No payment by Concessionaire or receipt by County of a lesser amount than the payment(s) due to be made by Concessionaire herein shall be deemed to be other than on account of the fees or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment of fees or charges shall be deemed an accord and satisfaction, and County may accept such check or payment without prejudice to County's right to recover the balance of such fees or charges or to pursue any other remedy provided in this Agreement.
3. Pursuant to any separate agreement between the parties not contained herein;
4. To reimburse County for services rendered, such as, but not limited to, utilities, trash removal, telephone, delivery access charges and similar charges.

Concessionaire's obligations pursuant to this Section shall include all interest, cost, damages, and penalties in conjunction with such sums so paid or expenses so incurred by County.

### **3.03 Airport Access and Security**

1. Concessionaire shall comply with all security regulations at the Airport pursuant to all local, State and federal law, including, but not limited to, any and all directives issued by the County. If required, Concessionaire shall obtain an Airport Tenant Security Program ("ATSP") document approved by TSA within sixty (60) days of receipt of written notice from the County or as otherwise directed by TSA. If required, Concessionaire shall maintain any TSA-approved ATSP throughout the Term of this Agreement.
2. Concessionaire's representatives, as determined by the County, must be able to pass a security background access investigation consisting of a fingerprint based criminal records check ("CHRC") (collectively, "Background Check"), as well as a Security Threat Assessment ("STA"), which must be approved by TSA before an Airport ID badge will be issued. All of Concessionaire's employees, contractors, or other persons doing business with Concessionaire requiring unescorted access to the secured area of the Leased Premises will require a badge and are also subject to Background Check and STA. Badges are issued by the County subject to each individual's successful completion of the Background Check in compliance with 49 CFR Part 1542 and all other applicable regulatory directives. Concessionaire applicants with approved access media will be subject to automatic enrollment into a continuous background monitoring program. In addition to the CHRC and STA requirements, Concessionaire employees and their representatives must establish a justifiable need for unescorted access authority. 3rd party vendors such as delivery drivers, maintenance personnel or union officials that are not directly employed by the Concessionaire are not automatically eligible for a badge as they do not meet the standard for justifiable need. The determination of justifiable need is at the sole discretion of the County.
3. If a badge is lost, stolen, or if the recipient fails to return the badge to the County when required by the County, Concessionaire shall be subject to a non-refundable reissuance fee, if applicable, and any other damages directly caused by the loss, theft or retention of the badge.
4. If required, Concessionaire shall establish and implement written procedures (Security Procedures) acceptable to the County for the control of and prevention of unauthorized access to, all areas within the Leased Premises. Concessionaire's Security Procedures shall also incorporate activities designed to assist the County in safeguarding all

other secured areas of Airport. The Security Procedures shall include, but are not limited to, the following procedures:

a. Gates, doors, fences or other parts of the Leased Premises shall be kept locked by Concessionaire at all times when not in use by or when not under the security surveillance of Concessionaire.

b. Lock malfunctions or other deficiencies, which would permit unauthorized access into secured/unsecured or into sterile/non-sterile areas of the Airport, shall be reported by Concessionaire at once to the County through the Airport Communications Center at (916) 874-0456. The unsecured access point shall be maintained under constant security surveillance by the Concessionaire until the Concessionaire has repaired the same and security through such point has been restored, and/or the County assumes security and/or repair of the access point.

c. Loss, misplacement, theft or failure to comply with the return of any badge shall be immediately reported to the County through the Airport Communications Center at (916) 874-0456.

5. Concessionaire shall be solely responsible for the control and movement of persons who are representatives of Concessionaire and that have a valid Airport issued ID badge moving from the Leased Premises onto all secured areas of the Airport. These badged representatives will comply with Airport security standards and the Airport's "Tiered" based fine program in order to obtain the badge. Concessionaire shall be solely responsible for the payment of any and all penalties and fines which may be levied by the TSA or other local, State or federal agencies for violation of any security regulations arising from or relating to Concessionaire's failure to perform its security responsibilities.

6. If required, Concessionaire shall install, maintain and operate, at no cost to County, access prevention and surveillance devices on the Leased Premises at access points to secured areas and along the secured perimeter of the Leased Premises, as determined by the County to be necessary for the safety or security of Airport. The County shall have unrestricted access to all access control devices or systems developed by Concessionaire.

7. Use of issued access control media, Airport issued ID badge, for other than official employer work purposes is prohibited; use of access control media, after work hours, to gain access to secured and/or sterile areas of the Airport is prohibited.

8. Concessionaires who use knives, scissors, bottle/wine openers, or any TSA prohibited item as part of their food preparation operation are subject to no notice inspections and are solely responsible for knife accountability at all times. Failure to properly account for knife audits will subject the Concessionaire to both Federal and local fine based penalties. Once a knife is unaccounted for, the Concessionaire must notify the Airport through the Airport Communications Center at (916) 874-0456 within five (5) minutes. Concessionaires are prohibited from selling or providing to the public any TSA prohibited item inside the sterile areas of the Airport.

9. Concessionaire must comply with all Airport Security procedures and TSA security regulations in regards to the merchandise and consumables sold or provided to the general public inside the Sterile Areas of the Airport. Under no circumstances can merchandise or consumables be introduced into the Sterile Area without prior inspection/screening as required by TSA-NA-16-01B (Inspection of Merchandise and Consumables Intended for the Sterile Area) dated June 25, 2018.

### **3.04 Amendment Required by FAA/TSA**

This Agreement may be amended from time to time, without further consideration, for the purpose of satisfying FAA/TSA requirements. This Agreement may be amended from time to time.

### **3.05 Applicable Law**

This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, and shall be deemed to have been made, and shall be performed, in the State of California.

### **3.06 Assignment and Subletting Prohibited**

Concessionaire shall have the right to assign this Agreement to an affiliate of Concessionaire.

### **3.07 Authority of the Director**

The Director shall administer this Agreement on behalf of County. Unless otherwise provided herein, or required by applicable law, the Director shall be vested with all rights, powers and duties of County hereunder.



With respect to matters hereunder subject to the approval, satisfaction or discretion of County or the Director, the decision of the Director in such matters shall be final.

### **3.08 California Law**

This Agreement shall be interpreted and enforced in accordance with the statutory and decisional law of the State of California. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumption or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

Any litigation filed by Concessionaire or County against the other regarding the terms of this Agreement, performance of a party's obligations under this Agreement, or any other reason related in any way to this Agreement, shall be filed in a federal or state court of competent jurisdiction located in Sacramento, California.

### **3.09 Compliance with Child, Family, and Spousal Support Reporting Obligations**

Concessionaire's failure to comply with State and federal child, family and spousal support reporting requirements regarding a Concessionaire's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations shall constitute a default under this Agreement.

Concessionaire's failure to cure such default within ninety (90) Days of notice by County shall be grounds for termination of this Agreement.

### **3.10 Compliance with Law**

Concessionaire shall comply with all local, state and federal laws and regulations applicable to its operations hereunder, and shall comply with all rules and regulations adopted by County.

### **3.11 Conflicts Between Concessionaires**

In the event of a conflict between Concessionaire and any other concessionaire as to the services provided and goods sold by respective concessionaires at County Airport System locations, the County shall decide which goods may be provided/sold by each concessionaire and Concessionaire agrees to be bound by such decision, and shall not be entitled to any compensation or damages as a result of such decision.

### **3.12 Consent**

Whenever the consent or approval of either County or Concessionaire is required or authorized hereunder, such consent or approval shall not be unreasonably withheld, unreasonably conditioned, or unreasonably delayed.

### **3.13 County's Remedies**

Pursuant to Section 1951.2 of the California Civil Code:

A. In the event that Concessionaire breaches this Agreement and abandons the Leased Premises before the end of the term described in Section 2.02 hereof, or if Concessionaire's right to possession is terminated by County because of a breach of this Agreement, this Agreement terminates. Upon such termination, the County may recover from Concessionaire:

1. Any and all of the unpaid Rent which had been earned at the time of termination;
2. The amount by which unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that Concessionaire proves could have been reasonably avoided;
3. The amount by which the unpaid Rent for the balance of the term described in Section 2.02 hereof, after the time of award exceeds the amount of such Rent loss that Concessionaire proves could reasonably be avoided; and
4. Any other amount necessary to compensate the County for all the detriment proximately caused by Concessionaire's failure to perform its obligations under this Agreement, or which in the ordinary course of things would be likely to result therefrom.

B. The amounts referred to in Subsections A. 1. and A. 2. are computed by allowing interest at the rate of eighteen percent (18%). The amount referred to in Subsection A. 3. is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

C. Damages which County may recover pursuant to Subsection A. 3. of this Section include the "worth at the time of award" of the amount by which the unpaid Rent for the balance of the term hereof exceeds the amount of such Rent loss for the same period that Concessionaire proves could be reasonably avoided; or County may recover damages pursuant to Subsection A. 3. of this Section in the event that County re-lets the Leased Premises prior to the time of award and proves that in re-letting the property it acted reasonably and in a good-faith effort to mitigate the damages.

D. Efforts by County to mitigate the damages caused by Concessionaire's breach of this Agreement do not waive County's right to recover damages pursuant to said Section 1951.2 and this Section.

E. Nothing in this Section affects the right of County under this Agreement to indemnification for liability arising prior to the termination of this Agreement for personal injuries or property damage, as herein provided.

Notwithstanding the foregoing, in the event of Concessionaire's breach of this Agreement and abandonment of the Leased Premises, pursuant to Section 1951.4 of the California Civil Code, County may, at its sole option, elect to continue this Agreement and enforce all its rights and remedies herein against Concessionaire, including the right to recover the Rent as it becomes due.

### **3.14 Cumulative Remedies**

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible be cumulative with all other remedies at law or in equity.

### **3.15 Digital Image**

The parties agree to accept a digital image of the Agreement, including all amendments thereto, as executed, as a true and correct original and admissible as best evidence for the purposes of State law, Federal Rule of Evidence 1002, and like statutes and regulations. Execution and delivery of this Agreement by portable document format ("PDF") copy bearing the PDF signature of any party hereto shall constitute a valid and binding execution and delivery of this Agreement by such party. Such PDF copies shall constitute enforceable original documents.

### **3.16 Economic Sanctions Compliance**

County represents that neither County nor any of its subsidiaries or, to the knowledge of County, any director, officer, employee, agent, affiliate or representative of County, or any third party to whom County directs Concessionaire to make any payments required by the Agreement, is an individual or entity ("Person") currently the subject of any sanctions administered or enforced by the United States Department of Treasury's Office of Foreign Assets Control ("OFAC"), or other relevant sanctions authority (collectively, "Sanctions"), nor is County located, organized or resident in a country or territory that is the subject of Sanctions; and County represents and covenants that it has not knowingly engaged in, is not now

knowingly engaged in, and shall not engage in, any dealings or transactions with any Person, or in any country or territory, that is the subject of Sanctions.

### **3.17 Early Termination by Concessionaire**

At any time Concessionaire is not in default in its payments or other obligations to County hereunder, Concessionaire may terminate this Agreement prior to expiration of the term hereof only upon the happening of one or more of the following events:

- a. Permanent abandonment of airport by County;
- b. Assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of airport, or any substantial part thereof, in such manner as to substantially restrict Concessionaire in its operations hereunder for a period of ninety (90) consecutive calendar Days;
- c. Issuance by a court of competent jurisdiction of a permanent injunction which in any way prevents or restrains use of airport in a manner substantially restricting Concessionaire's operations at the airport hereunder;
- d. Default by County in the performance of any promise, term, condition or covenant required of it to be performed hereunder, provided County fails to cure such default within sixty (60) calendar Days following receipt of written notice of such default from Concessionaire. However, if the nature of such default is such that it cannot reasonably be cured within such period, County shall be deemed to have cured such default if within such period County commences performance thereof and thereafter diligently prosecutes the same to completion.
- e. Early termination by Concessionaire pursuant to this Section shall be upon not less than fifteen (15) Days advance written notice to the County, which notice shall state the basis of such termination and the effective date thereof.
- f. In the event of early termination by Concessionaire pursuant to this Section, Concessionaire shall pay Rent to County to and through the date of such termination.

### **3.18 Early Termination by County**

County may terminate this Agreement prior to expiration of the Term hereof upon the happening of one or more of the following events:

- a. Concessionaire remains in arrears in any payment of Rent or fees required by this Agreement for a period of at least fifteen (15) Days following receipt of written notice of such arrearage from County;

- b. Concessionaire makes a general assignment for the benefit of its creditors;
- c. Concessionaire files a voluntary petition, or becomes the subject of an involuntary petition, in any proceeding in Bankruptcy Court;
- d. Concessionaire abandons all or any portion of the Leased Premises;
- e. Concessionaire fails to replace any improvements, that it is required to replace pursuant to this Agreement, which have been damaged or destroyed by fire, explosion or other catastrophe, within six (6) months from the date of such damage or destruction;
- f. Concessionaire fails to maintain self-insurance, as required in Section 2.19 of this Agreement. The County may, in its sole discretion, immediately terminate this Agreement if Concessionaire fails to maintain the required insurance.
  
- g. The default by Concessionaire in performance of any promise, term, condition, or covenant required of it hereunder, provided Concessionaire fails to cure such default within thirty (30) calendar Days following receipt of written notice of such default from County. However, if the nature of such default is such that it cannot reasonably be cured within such period, Concessionaire shall be deemed to have cured such default if within such period Concessionaire commences performance thereof and thereafter diligently prosecutes the same to completion.

Early termination by County pursuant to this Section shall be upon not less than fifteen (15) Days advance written notice to Concessionaire, which notice shall state the basis of such termination and the effective date thereof. Upon the effective date of such termination, County may take possession of the Leased Premises, without further notice or demand to Concessionaire. Failure to serve notice of termination upon the happening of any of the events described in this Section shall not operate to bar or destroy County's right to thereafter declare such termination upon the subsequent happening of any such event.

### **3.19 Employee Parking**

Vehicular and equipment parking by Concessionaire, its officers, agents, employees, licensees, suppliers or subcontractors shall be restricted to such areas at airports as are designated by the Director.

### **3.20 FAA Requirements**

#### **A. Airport Sponsor Assurances**

Concessionaire will, at all times during this Agreement, comply with the provisions of the FAA Airport Sponsor Assurances

(Assurances) and any subsequent revisions, updates, or amendments thereto. A copy of the current Assurances is attached as EXHIBIT D and incorporated herein by this reference. The provisions of the Assurances may change during the Term of this Agreement, and those changes will be incorporated into this Agreement without the necessity of a formal amendment. County is not responsible for notifying Concessionaire of any changes to the Assurances. Concessionaire is required to contact the FAA for any updates or revisions. The Assurances document is available on the FAA's website.

[https://www.faa.gov/airports/aip/grant\\_assurances](https://www.faa.gov/airports/aip/grant_assurances)

#### **B. Contract Provisions**

Concessionaire will, at all times, during the Term of this Agreement, comply with the provisions of the FAA Contract Provisions (Contract Provisions) and any subsequent amendments, applicable to the activities, rights and duties contemplated under this Agreement. A copy of the Contract Provisions is attached as EXHIBIT E and incorporated by reference. Concessionaire shall include compliance with the Contract Provisions in all other agreements it enters into with third parties, pertaining to, referencing or otherwise related to the activities regarding the subject matter of this Agreement.

#### **C. Additional Requirements**

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Concessionaire or Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

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

### **3.21 Entire Agreement**

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein. This Agreement may be amended only by written instrument executed by duly authorized representatives of the parties hereto.

### **3.22 Force Majeure**

Neither County nor Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of energy or materials, acts of God, acts of a public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage or any other circumstances for which it is not responsible or which are not within its control, provided these provisions may result in a pro rata abatement of the Monthly Base Rent as specified in Section 2.04.

### **3.23 Hazardous Materials**

#### **A. Concessionaire's Compliance with Environmental Laws**

Concessionaire shall at all times in all respects comply with all environmental laws, and any amendments thereto affecting Concessionaire's operation on the airport, including all federal, State and local laws, ordinances and regulations relating to Hazardous Material. As used herein, the term "Hazardous Material" includes, without limitation, any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States government.

#### **B. Hazardous Material Storage Permit**

Concessionaire shall be required to obtain a Hazardous Material Storage Permit from the County of Sacramento, Environmental Management Office, if at any time Concessionaire places or stores Hazardous Material liquid or Hazardous Material solids on the airport.

### **3.24 Headings**

The headings of the articles and sections of this Agreement are inserted only as a matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

### **3.25 Holding Over**

If Concessionaire remains in possession of the Leased Premises following the expiration or sooner termination of this Agreement, such holding over shall not be deemed to constitute an extension or renewal of this Agreement, but shall merely create a tenancy from month-to-month which either party hereto may terminate upon thirty (30) calendar Days advance notice to the other. In the event of such holding over, Concessionaire shall perform all terms, promises, conditions and covenants required of it hereunder, but shall pay Rent to County in such amounts as may be designated by the County, which in no case shall be less than that in

effect immediately prior to such expiration or sooner termination of this Agreement.

### **3.26 Improvements by County**

The County and Concessionaire agree and acknowledge that, from time to time, the County may undertake improvements to the terminals during the term of this Agreement. The County will attempt to make those improvements in a manner that does not interfere unreasonably with the operations of Concessionaire authorized under this Agreement. Concessionaire expressly waives any and all claims for damages of any kind, including but not limited to, loss of profits as a result of the interruption of business of Concessionaire that may arise as a result of such improvements undertaken by the County.

### **3.27 Independent Concessionaire**

Concessionaire is not an employee or agent of County by reason of this Agreement, or otherwise. Concessionaire is an independent contractor and, as between County and Concessionaire, Concessionaire shall be solely responsible for its acts or omissions arising from or relating to this Agreement.

### **3.28 Invalid Provisions**

In the event any covenant, condition or provision of the Agreement, or the application thereof to any person, entity, or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of the Agreement, or the application thereof to any person, entity, or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated, provided that such invalidity, voiding or unenforceability of such covenant, condition or provision does not materially prejudice either party in its respective rights and obligations contained in the then remaining valid covenants, conditions or provisions of this Agreement.

### **3.29 Licenses and Permits**

Concessionaire shall, at its sole cost and expense, obtain and maintain in full force and effect throughout the term of this Agreement any and all applicable business licenses and permits which may be required by any law, including administrative regulations and local ordinances, for the conduct of Concessionaire's ATM concession at the airports.

Within ten (10) calendar days following award of this Agreement, Concessionaire shall furnish the Director with copies of all such permits and licenses.



### **3.30 Limitations on Use of Leased Premises**

In connection with the exercise of Concessionaire's rights and duties under this Agreement, Concessionaire and any of its officers, representatives, agents, employees, Subtenants, guests, patrons, contractors, subcontractors, licensees, invitees, or suppliers shall not:

- a. Interfere with, or disturb the effectiveness or accessibility of the drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses within the airport;
- b. Do anything that may invalidate, conflict with, or increase the rate of any insurance policy(s) covering the County or any part thereof. The County, in its sole discretion, may limit, modify, or require removal of any materials, parts or equipment which the County reasonably determines are not incidental to Concessionaire's operations by written notification to Concessionaire. Concessionaire shall have forty-eight (48) hours from the mailing date of such notice to remove and properly dispose of any items identified;
- c. Interfere with the County staff, businesses, or patrons;
- d. Use or allow the use of the facilities within the airport for any improper, immoral, or unlawful purpose;
- e. Obstruct the roadways or passageways adjacent to or within the airport;
- f. Conduct any business within the airport other than that authorized by this Agreement;
- g. Advertise, solicit, or distribute materials within the airport in any manner without the advance written permission of the County.

### **3.31 Negation of Partnership**

Nothing in this Agreement shall be construed to render County in any way or for any purpose, a partner, joint venturer, or associate in any relationship with Concessionaire other than that of landlord and tenant, nor shall this Agreement be construed to authorize either County or Concessionaire to act as agent for the other.

### **3.32 Net Lease**

It is the intent and purpose of County and Concessionaire that all Rent payable by Concessionaire hereunder shall be absolutely net to the County so that this Agreement shall yield to the County the entire Rent herein specified free of any charges, assessments, impositions or deductions of any kind or character which may be charged, assessed, or imposed on or against

Concessionaire or the Leased Premises, without abatement, deduction or set-off by Concessionaire, except as may be otherwise provided herein.

County shall not be expected or required to pay any such charge, assessment or imposition, or be under any obligation or liability hereunder with respect thereto.

### **3.33 Nonexclusive Rights**

Nothing herein shall be construed to grant or authorize the granting of any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the airport. Provided, however, subject to the terms and provisions of this Agreement, Concessionaire shall have the right to exclusive possession of the Leased Premises described by Section 2.03 hereinabove.

### **3.34 Nonwaiver of Rights**

No failure by County to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial commissions during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of the Agreement to be performed or complied with by Concessionaire, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by County. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

No receipt of monies by County from Concessionaire after the termination of this Agreement, or after the giving of any notice of the termination of this Agreement (unless such receipt cures the event of default which was the basis for the notice), shall reinstate, continue or extend the term or affect any notice theretofore given to Concessionaire, or operate as a waiver of the right of County to enforce the payment of monies payable by Concessionaire hereunder or thereafter falling due. It is expressly agreed that after the service of notice to terminate this Agreement or the commencement of any suit or summary proceedings, County may demand, receive and collect any monies owed Concessionaire or paid Concessionaire under any Advertising Contract or any other agreement entered into by Concessionaire by virtue of this Agreement with County.

### **3.35 Notice of Claims and Suit**

County and Concessionaire shall each give the other prompt and timely written notice of any personal injury or other accident claim for or in

excess of One Thousand Dollars and 00/100ths (\$1,000.00), and of any lawsuit coming to its knowledge when either such claim or lawsuit arises out of or is in any way connected with the Leased Premises, the operations of Concessionaire hereunder, or the construction or operation of the airport by County which in any way, directly, indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Agreement.

Such notice shall be deemed prompt and timely if given within thirty (30) calendar Days following the date of receipt of such claim by an officer, agent, or employee of either party, and if given within ten (10) calendar Days following the date of service of process upon either party with respect to any such lawsuit.

### **3.36 No Warranty re Airport**

County does not warrant that airport will continue to be used as an airport during the term of this Agreement. In the event that such airport use is terminated, whether temporarily or permanently, Concessionaire shall neither claim nor have entitlement to any damages whatsoever from County.

### **3.37 Nuisance and Waste**

Concessionaire shall not conduct any operation or activity on the Leased Premises, or elsewhere in the airport, in which the sound emitting therefrom is of such volume, frequency or intensity at such time as to constitute a nuisance. Concessionaire shall not erect, nor permit to be erected, any nuisance on the Leased Premises, or permit any waste thereof. Concessionaire shall not permit any trash or garbage to accumulate on or about the airport and other common areas in or around the terminals. The County shall have the sole and exclusive authority to determine what constitutes a nuisance and waste.

### **3.38 Patents and Trademarks**

Concessionaire represents that it is the owner of or is fully authorized to use any and all services, processes, machines, articles, marks, names and slogans used in its operations under this Agreement. Concessionaire agrees to save and hold harmless the County, its officers, employees, agents and representatives from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Concessionaire under this Agreement.

Concessionaire and County acknowledge and agree that this Agreement does not operate to assign, transfer or convey to County any license, privilege or right of any kind or nature whatsoever to use for any reason any trademark, logo, brand, network names or network marks owned by concessionaire in any of County's advertising, signage or promotional

materials, including without limitation printed sales/marketing materials without the prior written consent, authorization and approval of Concessionaire, which approval may be withheld in Concessionaire's sole discretion.

### **3.39 Prior Damages and Vested Rights**

None of the provisions of this Article shall operate to preclude either party from obtaining judgment for any monies due and unpaid prior to termination or for any amounts required to be paid by one of the parties on account of the other party or paid to protect the property interests of one of the parties because of the acts of the other.

### **3.40 Prohibition of Liens**

Concessionaire shall pay promptly, as due, all persons supplying labor and materials for any alteration of or improvement to the Leased Premises, and shall permit no lien or claim to be filed or prosecuted against County on account of such labor and materials furnished.

### **3.41 Reentry**

County shall, upon termination as provided in Section 3.18 hereof, have the right to reenter the specified areas and every part thereof on an effective date of termination without further notice of Concessionaire of any kind and may regain and resume possession either with or without the institution of summary or regular proceedings or otherwise. Such reentry or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of Concessionaire under this Agreement and in no event constitute an acceptance of surrender.

### **3.42 Regulations and Restrictions**

This Agreement, and the rights herein granted, shall be subject to any and all applicable federal, State and County rules, regulations, orders and restrictions which are now in force or which may hereafter be adopted by any duly authorized governmental agency with respect to Concessionaire's operation at the airport. In the use of the Leased Premises, Concessionaire agrees to observe, obey and abide by all ordinances, field rules and other regulations of County applicable thereto. In addition to the foregoing, Concessionaire shall comply immediately with any and all directives issued by the County.

### **3.43 Release of Liability**

County shall not be liable for, and is hereby released from, any and all liability to Concessionaire, Concessionaire's insurance carrier, or to any

person claiming under or through Concessionaire for any loss or damage whatsoever to the property or effects of Concessionaire resulting from the discharge of water, or other substance, from pipes, sprinklers, conduits, containers, appurtenances thereof or fixtures thereto, or from any damage resulting from the discharge or failure of electric current, regardless of cause or origin, except the active negligence (or willful misconduct) of County, its officers, employees or agents. Further, Concessionaire shall be solely responsible for the safety and security of any equipment used by Concessionaire. County shall have no liability or responsibility whatsoever, and Concessionaire shall make no claim against County, with respect to such matters.

### **3.44 Right to Nonexclusive Use of Airport**

Concessionaire, throughout the term hereof, shall have the right to the nonexclusive use, in common with others, of the airport parking area, appurtenances and improvements thereon; the right of ingress to and egress from the Leased Premises, which right shall extend to Concessionaire's employees, guests, invitees and patrons; and the right, in common with others so authorized, to use common areas of the airport, including roadways and other conveniences, provided, however, Concessionaire shall not impair ingress or egress to other leased or public areas of the airport.

### **3.45 Risk Reduction**

Concessionaire shall neither use nor permit the use of the Leased Premises in such a manner as to increase the rate of insurance thereon in excess of that in existence at the commencement of the term hereof.

### **3.46 Successors and Assigns**

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors, assigns and personal representatives of the parties hereto.

### **3.47 Surrender of Leased Premises**

Subject to provisions of Section 3.18 (Early Termination by County), County is not required to give Concessionaire any notice to quit possession of the Leased Premises upon expiration or sooner termination of this Agreement. Concessionaire covenants and agrees it shall peaceably surrender possession of the Leased Premises upon expiration or sooner termination of this Agreement in good condition, reasonable wear and tear, acts of God, fire and other casualties excepted, and County shall have the right to take possession of the Leased Premises.

### **3.48 System Conversion**

Concessionaire shall have the right, without County's consent, at any time and from time to time, to convert the ATM system(s) and/or facility capable of accepting and operating with any and all bank, credit, debit or identification cards or devices designated or allowed by Concessionaire, so long as such system otherwise complies with this Agreement.

### **3.49 Taxes**

Concessionaire shall, at its sole cost and expense, pay any and all taxes for which it is responsible, or which may be assessed against.

#### **A. Possessory Interest Subject to Property Tax**

Under this Agreement, a possessory interest subject to property taxation may be created. Pursuant to Revenue and Taxation Code Section 107.6 and Government Code Section 53440.1, notice is hereby given that such possessory interest may be subject to property taxation and special taxation, if created, and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interest.

#### **B. Right to Contest Taxes**

Concessionaire shall have the right in its own name, or to the extent necessary, in County's name, to contest in good faith and by all appropriate proceedings the amount, applicability or validity of any tax assessment pertaining to the surface of the airports' property and its operations thereon.

In the event Concessionaire initiates such contest, County shall cooperate whenever possible with Concessionaire, provided that such contest will not subject any part of the surface of the airports' property to forfeiture or loss; and provided, further, that if Concessionaire contests any assessment made by the County Assessor, such contest shall not be initiated in the name of County, and County shall not be obligated to cooperate therewith.

If at any time, payment of any tax or assessment becomes necessary to prevent any such forfeiture or loss, Concessionaire shall timely pay such tax or assessment, to prevent such forfeiture or loss.

### **3.50 Time of the Essence**

Time is of the essence in the performance of this Agreement.

### **3.51 Transportation of Supplies and Items**

Concessionaire shall ensure that all supplies and other items necessary for Concessionaire's operations authorized under this Agreement that are being transported to and from the Space Assignment and do not interfere with normal airline terminal operations. All such supplies and other items

should be packaged within containers that prevent damage during transportation and that enable X-ray inspection if required.

In transporting such supplies and other items associated with operating Concessionaire's business, Concessionaire shall use only those delivery and receiving routes established by the County. Pallet jacks, if used, may only be utilized on the lower level of the terminal in the shipping and receiving areas and storage areas. If delivery and receiving routes are carpeted, any carts used must be equipped with wheels suitable for operating on carpets without causing damage to them. Concessionaire may only transport supplies and other items in those service elevators designated for delivery. Under no circumstances may deliveries be taken onto the escalators. Concessionaire must always refrain from transporting operating materials, such as office supplies, inventory, merchandise, recyclables, and trash through the public common areas of the airport whenever service corridors and delivery tunnels are available.

The County reserves the express right to further regulate the delivery and servicing activities of the Concessionaire and its suppliers to the airport and the Leased Premises and Concessionaire agrees to abide by such further regulations of the County.

### **3.52 Vehicle and Equipment Parking**

Vehicular and equipment parking by Concessionaire, its employees, agents, Subtenants, licensees, suppliers, and subcontractors shall be restricted to such areas at the airport as are designated by the County. Such parking shall be subject to the payment of such parking fees and charges as may from time to time be in effect for such designated areas.

### **3.53 Statement Regarding a Certified Access Specialist**

Pursuant to California Civil Code §1938, the COUNTY states that the leased Premises:

- Have not undergone an inspection by a Certified Access Specialist (CASp).
- Have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the leased Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.
- Have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the leased Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

### **3.54 Execution of Agreement**

Submission of this document by County for review, examination or execution by Concessionaire does not constitute a reservation of an option to operate the ATM concession at the airports or to lease space on the airports, and this document shall not be effective as an agreement, lease or otherwise, unless and until approved by the Board of Supervisors of the County and executed by the officer authorized by such Board.



**3.55 Execution of Agreement**

IN WITNESS WHEREOF, the parties hereto have caused this Automated Concession Teller Machine Agreement to be duly executed as of the day and year first above written, but effective as of the date set forth in Section 2.02.

COUNTY OF SACRAMENTO, a political subdivision of the State of California

"COUNTY"

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

By: \_\_\_\_\_

Cynthia A. Nichol, Director of Airports  
On behalf of the Board of Supervisors of the County of Sacramento, CA

"CONCESSIONAIRE"

Dates: \_\_\_\_\_

By: \_\_\_\_\_

(Name)

(Title)

REVIEWED AND APPROVED:

\_\_\_\_\_  
Diane McElhern  
Deputy County Counsel

## **EXHIBIT A**

CONCESSIONAIRE'S PROPOSAL is maintained in the  
Sacramento County Department of Airports Properties and Business  
Development Offices located at 6900 Airport Boulevard,  
Sacramento, CA 95837

**EXHIBIT B**  
**ATM LOCATIONS**

(to be inserted following award of Agreement)

# **EXHIBIT C**

## **Insurance Requirements for the Automated Teller Machine Concession Agreement between the COUNTY OF SACRAMENTO, hereinafter referred to as "County," and SAMPLE, hereinafter referred to as "Concessionaire"**

### **INSURANCE REQUIREMENTS**

Without limiting Concessionaire's indemnification, Concessionaire shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Concessionaire, its officers, agents, representatives, employees, Subtenants, guests, patrons, contractors, subcontractors, licensees, invitees, and suppliers. County shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the County Risk Manager, insurance provisions in these requirements do not provide adequate protection for County and for members of the public, County may require Concessionaire to obtain insurance sufficient in coverage, form and amount to provide adequate protection. County's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

### **Verification of Coverage**

Concessionaire shall furnish the County with certificates evidencing coverage required below. Copies of required endorsements must be attached to provided certificates. In the event Concessionaire elects to self-insure any of the insurance required by Exhibit C, Concessionaire agrees to (i) provide the County Risk Manager with advance notice of its intent to self-insure; (ii) self-insure under the same terms as are required by Exhibit C; and (iii) provide a self-insured Certificate of Insurance.

All certificates, evidences of self-insurance, and evidence of additional insured status of the County are to be received and approved by the County before performance commences. The County reserves the right to require that Concessionaire provide, explanatory memoranda confirming coverage and limits as required hereunder.

## **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. **GENERAL LIABILITY:** Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by the County Risk Manager.
2. **AUTOMOBILE LIABILITY:** Insurance Services Office's Commercial Automobile Liability coverage form CA 0001.
  - a. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.
  - b. Personal Lines automobile insurance shall apply if vehicles are individually owned.
3. **WORKERS' COMPENSATION:** Statutory requirements of the State of California and Employer's Liability Insurance.
4. **UMBRELLA or Excess Liability** policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.
5. **PROFESSIONAL LIABILITY:** Errors and Omissions (E & O) Liability Insurance appropriate to Concessionaire's profession or services.

## **Minimum Limits of Insurance**

Concessionaire shall maintain limits no less than:

1. General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$2,000,000
Products Comp/Op Aggregate:	\$2,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$1,000,000
Fire Damage:	\$100,000 (or replacement value of portion of building you lease, whichever is greater.)

2. Automobile Liability:
  - a. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit for Landside driving, \$5,000,000 for any Airside driving
  - b. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.
3. Workers' Compensation: Statutory.
4. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
5. Professional Liability: \$2,000,000

## **Deductibles and Self-Insured Retention**

Any deductibles or self-insured retentions shall be the responsibility of Concessionaire as defined by Concessionaire's own insurance or self-insurance program.

## **Other Insurance Provisions**

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

## **All Policies**

1. **ACCEPTABILITY OF INSURERS**: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than **A-:VII**. The County Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected.
2. **MAINTENANCE OF INSURANCE COVERAGE**: The Concessionaire shall maintain all insurance coverages in place at all times and provide the County with evidence of each policy's renewal ten (10) Days in advance of its anniversary date. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be canceled except after thirty (30) Days' written notice for cancellation or non-renewal has been given to the County. For non-payment of premium ten (10) Days prior written notice of cancellation is required.

## **Commercial General Liability and/or Commercial Automobile Liability**

1. **ADDITIONAL INSURED STATUS**: The County, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of the Concessionaire; products and completed operations of the Concessionaire; premises owned, occupied or used by the Concessionaire; or (commercial) automobiles owned, leased, hired or borrowed by the Concessionaire. The coverage shall contain no endorsed limitations on the scope of protection afforded to the County, its officers, directors, officials, employees, or volunteers.
2. **CIVIL CODE PROVISION**: Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an Agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
3. **PRIMARY INSURANCE**: For any claims related to this Agreement, the Concessionaire's insurance coverage shall be endorsed to be primary insurance as respects the County, its

officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, directors, officials, employees, or volunteers shall be excess of the Concessionaire's insurance and shall not contribute with it.

4. SEVERABILITY OF INTEREST: The Concessionaire's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. SUBCONTRACTORS: Concessionaire shall be responsible for the acts and omissions of all its subcontractors and shall require all its subcontractors to maintain adequate insurance.

### **Professional Liability**

PROFESSIONAL LIABILITY PROVISION: Any professional liability or errors and omissions policy required hereunder shall apply to any claims, losses, liabilities, or damages, demands and actions arising out of or resulting from professional services provided under this Agreement.

### **Workers' Compensation**

WORKERS' COMPENSATION WAIVER OF SUBROGATION: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the Concessionaire.

PROPERTY AND INLAND MARINE WAIVER OF SUBROGATION: Any Inland Marine insurance policies maintained by the Concessionaire in performance of the Agreement shall be endorsed to state that the insurer shall waive all rights of subrogation against the County.



**Notification of Claim**

If any claim for damages is filed with Concessionaire or if any lawsuit is instituted against Concessionaire, that arise out of or are in any way connected with Concessionaire's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect County, Concessionaire shall give prompt and timely notice thereof to County. Notice shall be deemed prompt and timely if given within thirty (30) Days following the date of receipt of a claim or ten (10) Days following the date of service of process of a lawsuit.

# **EXHIBIT D**

## **FEDERAL AVIATION ADMINISTRATION ASSURANCES**

## EXHIBIT D



**FAA  
Airports**

### **ASSURANCES AIRPORT SPONSORS**

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#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

#### **B. Duration and Applicability.**

##### **1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

##### **2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

##### **3. Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and

assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

### **C. Sponsor Certification.**

The sponsor hereby assures and certifies, with respect to this grant that:

#### **1. General Federal Requirements**

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

#### **FEDERAL LEGISLATION**

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.<sup>1, 2</sup>
- f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.<sup>1</sup>
- h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.<sup>1</sup>
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.<sup>1</sup>
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act – 18 U.S.C. § 874.<sup>1</sup>

- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

#### **EXECUTIVE ORDERS**

- a. Executive Order 11246 – Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

#### **FEDERAL REGULATIONS**

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. <sup>4,5</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.

- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.<sup>1</sup>
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.<sup>1</sup>
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).<sup>1</sup>
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.<sup>1, 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

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**FOOTNOTES TO ASSURANCE (C)(1)**

<sup>1</sup> These laws do not apply to airport planning sponsors.

<sup>2</sup> These laws do not apply to private sponsors.

<sup>3</sup> 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall

apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

- <sup>4</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>5</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

## **SPECIFIC ASSURANCES**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

### **2. Responsibility and Authority of the Sponsor.**

#### **a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

#### **b. Private Sponsor:**

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

### **3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

### **4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

### **5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere

with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

## **6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.



## **7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

## **8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

## **9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

## **10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

## **11. Pavement Preventive Maintenance-Management.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

## **12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

## **13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The

accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

#### **14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

#### **15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

#### **16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

#### **17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

## **18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

## **19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
  1. Operating the airport's aeronautical facilities whenever required;
  2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or

facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

## **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

## **21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

## **22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
  - 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable

classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for

which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

## **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
  2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the

public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

#### **27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

#### **28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

## **29. Airport Layout Plan.**

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
  1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
  4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
  1. eliminate such adverse effect in a manner approved by the Secretary; or
  2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

## **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) 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); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.



- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
  - 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor’s program or activities, these requirements extend to all of the sponsor’s programs and activities.
  - 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
  - 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The (**[Selection Criteria: Sponsor Name]**), 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, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”

e. Required Contract Provisions.

- 1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
  - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

**31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
  5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development

project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
  5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

### **32. Engineering and Design Services.**

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

### **33. Foreign Market Restrictions.**

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by

the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

#### **34. Policies, Standards, and Specifications.**

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of [Selection Criteria: Project Application Date].

#### **35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

#### **36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

#### **37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

#### **38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

### **39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
  1. Describes the requests;
  2. Provides an explanation as to why the requests could not be accommodated; and
  3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

**EXHIBIT E**

**FEDERAL AVIATION ADMINISTRATION CONTRACT  
PROVISIONS**

## EXHIBIT E

### FEDERAL AVIATION ADMINISTRATION CONTRACT PROVISIONS

#### A. General Civil Rights Provision

Concessionaire agrees to comply with pertinent Laws, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from federal assistance. If Concessionaire transfers its obligation to another, the transferee is obligated in the same manner as Concessionaire. This provision obligates Concessionaire for the duration of this Agreement and so long as the Airport remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**1. Compliance with Nondiscrimination Requirements.** During the performance of this Agreement and to the extent applicable, Concessionaire, for itself, its assignees, and successors in interest agrees as follows.

**2. Compliance with Regulations.** Concessionaire will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities (the "Acts"), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

**3. Nondiscrimination.** Concessionaire, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and Agreements of equipment. Concessionaire will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

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

**5. Information and Reports.** Concessionaire will provide all reasonably requested information and reports required by applicable Laws and will permit access to its books, records, accounts, other sources of

information, and its facilities as may be determined by the City or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of Concessionaire is in the exclusive possession of another who fails or refuses to furnish the information, Concessionaire will so certify to the City or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

**6. Sanctions for Noncompliance.** In the event of Concessionaire's noncompliance with the nondiscrimination provisions of this contract, the City will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending the Agreement, in whole or in part.

**7. Incorporation into Subcontracts.** Concessionaire will include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Concessionaire will take action with respect to any subcontract or procurement as the County or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Concessionaire becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Concessionaire may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Concessionaire may request the United States to enter into the litigation to protect the interests of the United States.

## **B. Title VI List of Pertinent Nondiscrimination Acts and Authorities.**

During the performance of this Agreement, Concessionaire, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons



displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

5. The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);

6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

9. The FAA's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, Concessionaire must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

12. Title IX of the Education Amendments of 1972, as amended, which prohibits Concessionaire from discriminating because of sex in education programs or activities (20 USC 1681 *et seq*).

**A. FEDERAL FAIR LABOR STANDARDS ACT**

This Agreement incorporates by reference the provisions of 29 USC Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Concessionaire has full responsibility to monitor compliance to the referenced statute or regulation. Concessionaire must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

**B. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

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

## ATTACHMENT 2

### ***ATM Available Locations***

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#### A. Number and Location of Available Space

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The Department is seeking proposals for one (1) Concessionaire to operate ATMs located at the indicated Department locations. Proposals will be accepted to include all locations listed in the table below: (Note: Proposals must include **all** locations).

Terminal A	Two (2) total ATMs: One (1) at Level 1, Baggage Claim One (1) at Level 2, post-security - Food Court
Terminal B	Two (2) total ATMs: One (1) at Level 1, Baggage Claim Two (1) at Level 3, Transfer Station - APM
Concourse B	Two (2) total ATMs: One (1) at Level 2, west side – Southwest Airlines gates One (1) at Level 2, east side – Alaska Airlines gates and International gates
SMF Rental Car Facility	One (1) at the Rental Car Facility.
Sacramento Executive Airport (SAC)	One (1) at the SAC Airport terminal building

#### B. Proposals Accepted only for All Locations

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Proposals will be accepted only from Proposers including **all locations** in their Proposal.

#### C. Locations Subject to Change

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The locations are subject to the Director's final approval and maybe relocated throughout the Agreement term.

**ATTACHMENT 3**  
**Rent Proposal Form**

Proposer: \_\_\_\_\_

Automated Teller Machine (ATM)

Monthly Base Rent per ATM (no less than \$2,000.00 per location).

<p><b>Terminal A Food Court Area</b> \$_____ Monthly Base Rent per ATM. \$_____ Transaction Fee per transaction. Include to whom the transaction fees apply.</p>	<p>Two (2) total ATMs:  One (1) at Level 1 - Baggage Claim One (1) at Level 2 - Food Court</p>
<p><b>Terminal B and Concourse B</b> \$_____ Monthly Base Rent per ATM \$_____ Transaction Fee per transaction. Include to whom the transaction fees apply.</p>	<p>Five (5) total ATMs:  One (1) on Level 1 Terminal B Two (2) on Level 3 Terminal B Two (2) on Level 2 Concourse B</p>
<p><b>Sacramento International Airport Rental Car Facility</b> \$_____ Monthly Base Rent per ATM \$_____ Transaction Fee per transaction. Include to whom the transaction fees apply.</p>	<p>One (1) ATM in the Rental Car Facility.</p>
<p><b>Sacramento Executive Airport (SAC)</b> \$_____ Monthly Base Rent per ATM \$_____ Transaction Fee per transaction. Include to whom the transaction fees apply.</p>	<p>One (1) ATM in the terminal building at SAC</p>

(Note: Proposals must include **all** locations).

## ATTACHMENT 4

### ***General Airport and Airline Information***

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#### Overview

The County Airport System is comprised of 4 airports: Sacramento International Airport; Sacramento Executive Airport; Sacramento Mather Airport and Franklin Field. This RFP solicits Proposals for ATM locations throughout all airports within the County Airport System with the exception of Franklin Field.

#### **A. Sacramento International Airport**

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##### General:

Sacramento International Airport opened in 1967 and currently encompasses approximately 6,000 acres. Operated by the Sacramento County Department of Airports, it is financially self-supporting, receiving no city, county or state tax money, but does receive federal funds available from direct user ticket and fuel taxes for construction of certain eligible projects.

##### Location:

SMF is located 12 miles northwest of downtown Sacramento - 15 freeway minutes north on Interstate 5 and also conveniently close to surrounding communities of Auburn, Chico, Davis, Fairfield, Folsom, Lincoln, Lodi, Marysville, Napa, Oroville, Placerville, Roseville, Stockton, Vacaville, Woodland and Yuba City.

##### Passenger Statistics:

<b><i>Year</i></b>	<b><i>Enplaned and Deplaned Passengers</i></b>	<b><i>% Change</i></b>
<i>2021</i>	<i>9,702,030</i>	<i>73.8</i>
<i>2020</i>	<i>5,583,052</i>	<i>-57.6</i>
<i>2019</i>	<i>13,172,840</i>	<i>9.3</i>
<i>2018</i>	<i>12,050,763</i>	<i>10.4</i>
<i>2017</i>	<i>10,912,080</i>	<i>7.8</i>
<i>2016</i>	<i>10,118,794</i>	<i>5.3</i>

In 2021, the 9,702,030 enplaned and deplaned passengers consisted of 3,229,455 from Terminal A and 6,472,575 from Terminal B. The Department offers no guarantee that the split between terminals would stay constant.

Airlines:

Terminal A: Air Canada, American, Delta, United

Terminal B: Aeromexico, Alaska/Horizon, Frontier, Hawaiian, JetBlue, Southwest, Spirit, Volaris

Over 145 scheduled departures per day; over 13.1 million passengers carried in 2019 with frequent non-stops to 32 destinations including: Atlanta, Baltimore, Boise, Charlotte, Chicago, Dallas, Denver, Guadalajara, Honolulu, Houston, Las Vegas, Los Angeles, New York, Maui, Minneapolis, Phoenix, Portland, Salt Lake City, San Diego, San Francisco, Seattle, Spokane, Toronto, and Washington D.C.

## **B. Sacramento Executive Airport**

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Sacramento Executive Airport is owned by the City of Sacramento and operated by the Department. SAC is the County's primary general aviation airport and is home to over 30 businesses that provide a wide range of services including: air charters; aircraft sales; rentals and repairs; avionics; flight training; pilot's lounge; pilot supplies; computer-based testing; car rentals and a full-service restaurant.

## **ATTACHMENT 5**

### **Current Automated Teller Machine Concession Operations**

#### **A. Current Operation and Historical Transaction Counts**

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There are currently eight (8) ATMs operating within the County Airport System. The locations and activity levels since January 2020 are in the transaction count tables attached.

## SACRAMENTO COUNTY AIRPORT SYSTEM ATM ACTIVITY 2020 -2022

Bank ATM Activity - # Transactions	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Total	Avg
Terminal A Level 1 - Baggage	824	766	477	126	179	285	433	441	530	531	436	397	5,425	452
Terminal A Level 2 - Food Court	870	853	437	67	144	207	258	335	411	470	329	323	4,704	392
Terminal B Level 1 - Baggage	379	281	215	73	136	227	257	258	235	238	190	185	2,674	223
Terminal B Level 3 - East	551	479	285	86	97	199	240	207	255	287	213	2	2,901	242
Concourse B - Level 2 - West	2,215	2,107	1,043	218	394	598	681	749	745	780	631	648	10,809	901
Concourse B - Level 2 - East	1,164	1,092	580	72	136	290	430	421	409	441	367	369	5,771	481
* Rental Car Facility	0	0	146	74	125	172	209	228	258	202	160	152	1,726	144
Sacramento Executive Airport	111	121	98	42	56	73	89	106	109	96	78	58	1,037	86
Sacramento Mather Airport	121	127	99	83	131	130	181	286	280	179	160	110	1,887	157

\*Added March 2020

Bank ATM Activity - # Transactions	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Total	Avg.
Terminal A Level 1 - Baggage	381	361	516	516	601	680	702	697	604	486	492	471	6,507	542
Terminal A Level 2 - Food Court	296	297	264	463	579	609	623	621	653	490	565	590	6,050	504
Terminal B Level 1 - Baggage	236	202	241	287	299	288	307	333	266	281	166	251	3,157	263
Terminal B Level 3 - East	30	218	264	323	358	366	420	401	408	434	394	361	3,977	331
Concourse B - Level 2 - West	543	638	915	861	985	1,014	1,238	1,133	1,248	1,116	450	1,145	11,286	941
Concourse B - Level 2 - East	323	344	551	666	790	917	1,098	855	997	766	389	859	8,555	713
Rental Car Facility	138	140	190	199	188	222	249	224	186	136	171	236	2,279	190
Sacramento Executive Airport	76	82	113	110	96	108	121	120	104	92	74	65	1,161	97
* Sacramento Mather Airport	112	96	159	147	6	*NA	NA	NA	NA	NA	NA	NA	520	43

\* Removed May 2021

Bank ATM Activity - # Transactions	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Total	Avg
Terminal A Level 1 - Baggage	377	355	444	503	549	543	453	482	471	453	415		5,045	505
Terminal A Level 2 - Food Court	361	406	508	567	611	566	639	655	698	543	507		6,061	606
Terminal B Level 1 - Baggage	205	221	287	271	314	296	386	310	271	264	236		3,061	306
Terminal B Level 3 - East	324	366	445	433	486	485	439	493	481	486	472		4,910	491
Concourse B - Level 2 - West	925	1,033	1,072	1,345	1,444	1,352	1,493	1,292	1,488	1,467	1,394		14,305	1,431
Concourse B - Level 2 - East	680	851	1,147	1,059	1,043	961	1,113	858	1,199	1,201	1,143		11,255	1,126
Rental Car Facility	151	132	185	132	185	174	167	189	177	178	173		1,843	184
Sacramento Executive Airport	78	93	107	94	112	97	87	86	114	114	106		1,088	109